

Dear Sir/Madam,

**COUNCIL MEETING – TUESDAY, 16 JANUARY 2018**

Notice is hereby given that a meeting of the Planning Committee will be held in the Civic Suite, Castle House, Great North Road, Newark, Notts, NG24 1BY on Tuesday, 16th January, 2018 at 4.00 pm.

Yours faithfully



A.W. Muter  
Chief Executive

**AGENDA**

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| 2. | Declarations of Interest by Members and Officers    |        |
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| 5. | Platts Orchard, 39 Church Street, Southwell (17/01688/FUL)            | 11 - 38 |
|    | (Site Visit: 9.20am – 9.30am)   |         |
| 6. | Bechers Cottage, Bechers Walk, Burgage Lane, Southwell (17/01787/FUL) | 39 - 56 |
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# Agenda Item 4

## NEWARK AND SHERWOOD DISTRICT COUNCIL

Minutes of the Meeting of the **PLANNING COMMITTEE** held in the Civic Suite, Castle House, Newark on Tuesday, 5 December 2017 at 4.00pm.

PRESENT: Councillor D.R. Payne (Chairman)  
Councillor G.P. Handley (Vice-Chairman)

Councillors: R.V. Blaney, Mrs A.C. Brooks, R.A. Crowe, Mrs M. Dobson, J.D. Lee, N.B. Mison, Mrs P.J. Rainbow, Mrs S.E. Saddington, I. Walker and B. Wells.

### 145. APOLOGIES FOR ABSENCE

Apologies for absence were received on behalf of Councillors Mrs K. Arnold, Mrs L.M.J. Tift and Mrs Y. Woodhead.

### 146. DECLARATIONS OF INTEREST BY MEMBERS AND OFFICERS

<u>Member/Officer</u>	<u>Agenda Item</u>
Councillors D.R. Payne, I. Walker and B. Wells	All Relevant Items – Personal Interests as the Councillors are Members of the Internal Drainage Board.
Councillor D.R. Payne	Agenda Item No. 12 – Little Hollies, The Close, Averham (17/01193/FUL) Personal Interest as the applicant was a former client.

### 147. DECLARATION OF ANY INTENTIONS TO RECORD THE MEETING

The Chairman informed the Committee that the Council was undertaking an audio recording of the meeting.

### 148. MINUTES OF THE MEETING HELD ON 7 NOVEMBER 2017

AGREED that the minutes of the meeting held on 7 November 2017 be approved as a correct record and signed by the Chairman.

### 149. ORDER OF BUSINESS

With the agreement of the Committee, the Chairman changed the order of business and Agenda Item 15 was taken as the first item of decision. The agenda resumed its stated order thereafter.

### 150. RECREATION GROUND, ELM AVENUE, NEWARK (17/01693/FULM) (MAJOR)

The Committee considered the report of the Deputy Chief Executive, which sought full planning permission for a new sports and community facility. The existing playing fields and sports facilities are proposed to be altered and supplemented by new sports

playing pitches, cycle track, skate park, tennis courts, multipurpose pitches and provision of alternative route for existing bridleway. Extension of playing pitch areas into vacant land to the east of the current facilities is also proposed. The proposed building will include crèche and pre-school facility, training, offices, music, dance and art studios, sports facilities, changing areas to serve both the internal and external sports, function rooms, café and kitchen.

A schedule of communication was tabled at the meeting, which detailed correspondence received after the agenda was published from Newark Town Council.

The Business Manager Growth & Regeneration informed the Committee that Nottinghamshire County Council Highways Authority had confirmed shortly before the meeting that they were happy with the car parking provision of one hundred and eight additional car parking spaces, subject to a twelve month review or additional parking being provided prior to this date, a realistic prospect set out in the agenda papers given that the Council were proposing additional car parking capacity at this location.

Members considered the application and the Leader of the Council commented that he had been heavily involved in the last three years to bring this scheme forward. This was a long aspiration of the Council and had been included in the Local Plan from 1999 and had been developed when the Council was Labour controlled. Policy R8 in that Local Plan referred to RHP sports grounds which have been in use as a private sports ground since 1931 and played an important part in sports activities in the town. He explained the importance of securing Sports England support. Nott's Wild Life Trust had an objection which had been resolved. A report had been taken to the last meeting of the Policy & Finance Committee which had considered a report from Sustrans regarding the hire of bikes, as the sports ground was adjacent to their linear park. Balderton Parish Council had also undertaken discussions as they were the owners of Balderton lakes and were exploring whether water based activities could be undertaken in addition to fishing on those lakes.

There had been no material objection from any of the relevant bodies and only nine letters of objections had been received from fifty four letters that had been sent to residents and businesses. In planning terms there was no reason for objection. There was recognition that there was work in progress which was included within the conditions. The works would be undertaken by a phased approach. The first phase would be to replace the facilities lost at the old Grove school, which was welcomed as there was a time limit regarding the funds secured for that. Another member commented that this was an important and long-standing aspiration for Newark from the 1980's.

In answer to a Member question regarding fencing it was confirmed that the whole site would be secured from a safeguarding and revenue perspective. The fencing would be 3.5 metres high reducing to 2 metres to the northern boundary. Neighbour concerns had also tried to be addressed regarding the fencing.

The neighbouring Ward Member confirmed that he was happy with the entire development and sought clarification regarding the volume of traffic from the forty one staff cars accessing the site from Elm Avenue and that this would not be used by customers. The Business Manager Growth & Regeneration confirmed that the car park would be controlled in terms of being for staff only. Staff would gain access through a secure gate.



AGREED (unanimously) that full planning permission is approved subject to the conditions and reasons contained within the report.

151. DOMANCI COTTAGE, BATHLEY LANE, LITTLE CARLTON (17/01989/FUL)

The Committee considered the report of the Deputy Chief Executive, following a site visit prior to the meeting, which sought a first floor extension over the existing ground floor side element of the property with internal alterations.

A schedule of communication was tabled at the meeting, which detailed correspondence received after the agenda was published from Nottinghamshire County Council Highway Authority.

Members considered the application and it was commented that the applicants were a young couple with a family, who would like to remain in the village of their choice. The property was currently one bedroom and one box room and there was no other affordable housing for sale in the village at that present time. The Parish Council were in support of the application and it was felt that the village needed growth from young families.

Members commented that as the cottage was semi-detached the extension would look unbalanced due to the adjoining property. Other Members felt that the extension would be a significant improvement to the property. A Member raised concern regarding the availability of affordable housing in small villages and felt that this was another house that would become unaffordable should it be put up for sale.

AGREED (with 7 votes for, 4 votes against and 1 abstention) that contrary to Officer recommendation, planning permission be granted subject to reasonable conditions delegated to the Business Manager Growth & Regeneration.

In accordance with paragraph 12.5 of the Planning Protocol, as the motion was against Officer recommendation, a recorded vote was taken.

<b>Councillor</b>	<b>Vote</b>
Mrs K. Arnold	Absent
R.V. Blaney	Against
Mrs A.C. Brooks	Against
R.A. Crowe	For
Mrs M. Dobson	Abstention
G.P. Handley	For
J. Lee	For
N. Mison	For
D.R. Payne	Against
Mrs P. Rainbow	For
Mrs S.E. Saddington	For
Mrs L.M.J. Tift	Absent
I. Walker	For
B. Wells	Against
Mrs Y. Woodhead	Absent

152. PLUM TREE COTTAGE, BATHLEY LANE, LITTLE CARLTON, NEWARK (17/02007/FUL)

The Committee considered the report of the Deputy Chief Executive, following a site visit prior to the meeting, which sought a householder application for a proposed extension to the existing garage to form first floor office/hobby room and gym on the ground floor.

Members considered the application and it was commented that there were no large houses for sale in the village. Young people should be encouraged to stay in the villages to keep the facilities running. A Member commented that if the small properties within villages kept increasing in size there would not be any affordable housing for young people to purchase. The extension was for a hobby room/gym and it was therefore felt that the application was unacceptable.

Other Members felt that the location and general aspect was acceptable and the roof height would not cause any issues as the property was not in close proximity to other properties.

AGREED (with 7 votes for and 5 votes against) that planning permission be refused on the grounds contained within the report.

153. TRENT FARMHOUSE, NORWELL ROAD, NORWELL WOODHOUSE (17/01888/FUL)

The Committee considered the report of the Deputy Chief Executive, following a site visit prior to the meeting, which sought a householder application for a proposed two storey rear extension.

Councillor Mrs H. Moreno, representing Norwell Parish Council spoke in support of the application in accordance with the views of Norwell Parish Council as contained within the report.

Members considered the application and it was commented that young families were needed in small villages, Norwell Woodhouse had just two young families residing there and were needed to keep the facilities running. The application was not in a conservation area and it was felt that there was no reason to refuse the application. Other Members commented that this was a five bedroom, three bathroom property and the proposals would triple the size of the property. It was commented that if the application was approved it would be an abuse of the planning policies in place. It was also commented that there were other large houses available on the market in the area.

A Member commented on the creep of the gravel drive into the paddock area which should be enforced. It was however commented that the development was in a tucked in position and the footprint would be contained within the redline as indicated on the plans and would be a quality extension.

AGREED (with 10 votes for, 1 vote against and 1 abstention) that planning permission be refused on the grounds contained within the report.

154. 1 TENTERS COTTAGE, TENTERS LANE, EAKRING (17/01780/FUL)

The Committee considered the report of the Deputy Chief Executive, following a site visit prior to the meeting, which sought full planning permission for the refurbishment and extension of the existing 1 Tenter's Cottage, the demolition and replacement of 2 Tenter's Cottage and the erection of two additional semi-detached properties.

A schedule of communication was tabled at the meeting, which detailed correspondence received after the agenda was published from the Agent.

*(Councillor J. Lee was not present for the presentation of this item and took no part in the debate or vote).*

Members considered the application was acceptable.

AGREED (with 10 votes for and 1 vote against) that full planning permission be approved subject to the conditions and reasons contained within the report.

155. LAND AT CINDER LANE, OLLERTON (16/01102/OUTM) (MAJOR)

The application was withdrawn from the agenda.

156. 42 HIGH STREET, EDWINSTOWE (17/01508/FUL)

The Committee considered the report of the Deputy Chief Executive, following a site visit prior to the meeting, which sought planning permission for three holiday cottages; this was a re-submission for previous approved planning application 10/00203/FUL.

A schedule of communication was tabled at the meeting, which detailed correspondence received after the agenda was published from the Planning Case Officer regarding an incorrect site plan included in the Planning Committee Agenda. The correct site plan was tabled to Members at the Planning Committee.

Members considered the application and the local ward Member commented that car parking was a problem within the Village. The car park to the rear of the site was well used by the doctor's surgery and library and parking on the High Street was limited to one hour. It was also confirmed that no special permission had been granted by Edwinstowe Parish Council, for allocated car parking spaces within the public car park for the three holiday cottages, as suggested within the report. It was also felt that there was ample B&B's within the village and holiday lets that had vacancies, there was therefore no need at the present time for this development. Concern was raised regarding the amenity space for the proposed application as the small courtyard would be shared with five properties, not just the three holiday lets. The Chains located outside of the proposed development were asked to remain should the Committee be minded to approve the application as they were of historic importance and had been used by a former prison within the village. It was confirmed that the Historical Society could support that information.

A Member sought clarification that the holiday lets would remain holiday lets given the high demand for tourism in this area and also felt that the car park may be dominated by the lets given that it was a free public car park. The Business Manager Growth & Regeneration confirmed that there was a condition within the planning permission that the flats remain as Holiday lets.

Further concern was raised regarding the amenity space and whether that would be large enough for families to have barbecues in the summer months.

*(Councillor N.B. Mison left during the presentation of this item. Councillor J. Lee was not present for the duration of the presentation and did not take part in the debate or vote).*

A vote was taken and lost to refuse planning permission with 5 votes for and 5 votes against, on the grounds of amenity space and overlooking.

AGREED (with 5 votes for, 5 votes against and the Chairman using his casting vote in favour of granting the application) that full planning permission be approved subject to the conditions and reasons contained within the report.

157. LAND TO THE REAR OF 37 & 39 HALLOUGHTON ROAD, SOUTHWELL (17/00771/FUL)

The application was withdrawn from the agenda.

158. LITTLE HOLLIES, THE CLOSE, AVERHAM (17/01193/FUL)

The Committee considered the report of the Deputy Chief Executive, which sought the demolition of a garage and creation of a five bedroom house with detached double garage, formation of a new driveway for the existing dwelling, Little Hollies.

The application was deferred from the 7 November 2017 Planning Committee, to allow officers to request street scene elevations to show differing heights of neighbouring dwellings.

A schedule of communication was tabled at the meeting, which detailed correspondence received after the agenda was published from Averham, Kelham & Staythorpe Parish Council and a Neighbour.

Members considered the application and a Member commented that the property had been elevated upwards to create a second floor to achieve five bedrooms. The height level was greater than that of the adjacent properties. Concern was raised regarding the impact to the street scene, not unlike the unintended impacts which had been experienced in a previously granted planning permission at Rolleston. On paper the height of the building appeared acceptable as that before the Committee, when the property was built the impact in height could be seen. With that in mind the Member requested that the application be refused as the application looked to be shoe horned into the plot, in terms of width and mass, its spacing between dwellings was contrary to that prevalent in the street, and there would be a perception of an over-bearing impact from the development.

*(Councillor D.R. Payne took no part in the discussion or vote).*

AGREED (with 10 votes for and 1 abstention) that contrary to Officer recommendation full planning permission be refused on the following grounds:

Cramped appearance of the development and disproportionate impact on street scene given width, mass, and siting and impact on neighbouring amenity.

In accordance with paragraph 12.5 of the Planning Protocol, as the motion was against Officer recommendation, a recorded vote was taken.

<b>Councillor</b>	<b>Vote</b>
Mrs K. Arnold	Absent
R.V. Blaney	For
Mrs A.C. Brooks	For
R.A. Crowe	For
Mrs M. Dobson	For
G.P. Handley	For
J. Lee	For
N. Mison	Absent
D.R. Payne	Abstention
Mrs P. Rainbow	For
Mrs S.E. Saddington	For
Mrs L.M.J. Tift	Absent
I. Walker	For
B. Wells	For
Mrs Y. Woodhead	Absent

*(Councillor R.V. Blaney left the meeting at this point).*

159. 22 HIGH STREET, SUTTON ON TRENT (17/01300/FUL)

The Committee considered the report of the Deputy Chief Executive, which sought planning permission for the sub-division of the application dwelling into two independent dwellings, one three bedroom dwelling and one two bedroom dwelling.

AGREED (unanimously) that the application be deferred pending a site visit.

160. LAND OFF MILL LANE, NORTH CLIFTON (17/01564/FUL)

The Committee considered the report of the Deputy Chief Executive, which was a resubmission and sought the erection of a single log cabin and access road for use as tourist accommodation.

Members considered the application and felt that as ecology had been brought to their attention the item should be deferred pending submission of protected species and tree surveys and to also enable a site visit to take place. Members also sought clarification regarding how the applicant could justify a tourism need.

AGREED (unanimously) that the item be deferred pending submission of protected species and tree surveys and to enable a site visit. The Planning Committee would also like to be advised further on how the applicant could justify a tourism need.

*(Councillor B. Wells left the meeting at this point).*

161. RULE NO.30 – DURATION OF MEETINGS

In accordance with Rule No. 30.1, the Chairman indicated that the time limit of three hours had expired and a motion was proposed and seconded to extend the meeting by one hour.

AGREED (unanimously) that the meeting continue for a further one hour.

162. WIRTGEN GROUP HOUSE, GODFREY DRIVE, WINTHORPE (17/01727/ADV)

The Committee considered the report of the Deputy Chief Executive, which sought approval for the installation of two internally illuminated pylon signs; one internally illuminated building sign and six flagpoles to be erected at the Wirtgen Group House site.

A schedule of communication was tabled at the meeting, which detailed correspondence received after the agenda was published from Winthorpe with Langford Parish Council.

Members considered the application and the local Ward Member commented that Winthorpe and Langford Parish Council had commented that the signage was over excessive; six flags were over the top. It was also requested that the illuminated sign on the top of the building be non-illuminated. It was therefore confirmed that the following would be acceptable: two totem signs, a non-illuminated sign on top of the building and one flag.

Other Members commented that the area was a built up area with similar illuminated signs and was not within the open countryside. The six flags represented the six groups that were involved with the business. The illuminated sign could be conditioned through hours of illumination. Other Members agreed that the six flags would be excessive especially when the site was developed as more businesses may want a similar arrangement and the cumulative affect would be excessive.

AGREED (with 6 votes for and 3 votes against) that split advertisement consent be granted as follows and subject to the conditions contained within the report.

Split Decision as follows:

Approve:

(i) the 2 no. totem sign; and

(ii) the signage to the top of the building subject to condition that is non illuminated and to the standard advertisement conditions

Refuse flagpoles for following reason:

The cumulative impact of the proposed flagpoles together with the signage would result in unnecessary clutter of signage at the application site to the detriment of the amenity of the site and its wider rural setting.

In accordance with paragraph 12.5 of the Planning Protocol, as the motion was against Officer recommendation, a recorded vote was taken.

<b>Councillor</b>	<b>Vote</b>
Mrs K. Arnold	Absent
R.V. Blaney	Absent
Mrs A.C. Brooks	For
R.A. Crowe	Against
Mrs M. Dobson	For
G.P. Handley	For
J. Lee	Against
N. Mison	Absent
D.R. Payne	Against
Mrs P. Rainbow	For
Mrs S.E. Saddington	For
Mrs L.M.J. Tift	Absent
I. Walker	For
B. Wells	Absent
Mrs Y. Woodhead	Absent

163. LAND NEAR WOODLANDS BARN, MILL LANE, SOUTH CLIFTON (17/01812/FUL)

The Committee considered the report of the Deputy Chief Executive, which sought full planning permission for the erection of a four bedroom two storey dwelling that would front onto Moor Lane.

Members considered the application and felt that the design was not exceptional, the application was refused in 2013 and within that time period there had been no change to the planning policies. They therefore considered that nothing had changed from 2013 and the application should be refused.

AGREED (unanimously) that the application be refused for the reasons contained within the report.

164. APPEALS LODGED

AGREED that the report be noted.

165. APPEALS DETERMINED

AGREED that the report be noted.

*(Councillor I. Walker left the meeting at this point).*

166. PLANNING ENFORCEMENT UPDATE

The Committee considered the report of the Deputy Chief Executive, which updated Members on planning enforcement matters. The report provided a snap shot on the general volumes of cases received and dealt with. Schedule A to the report outlined the enforcement activity during the previous months. Schedule B provided a more detailed position statement on formal action and prosecutions during the last two months.

Members sought clarification regarding the following: 60% of all of the enforcement cases turn out to be non-cases; the numbers provided showed a build-up of cases received to cases closed. What were the figures today regarding the cases open and what the target number was? The Business Manager Growth & Regeneration confirmed that there had been three hundred outstanding cases, today's figures showed two hundred and forty three outstanding cases. There were three Officers dealing with those cases.

Members commented that a decision needed to be made as to whether a further Enforcement Officer should be employed to reduce the number of outstanding enforcement cases and also to send a message to offending parties.

AGREED that the report be noted.

167. EXCLUSION OF THE PRESS AND PUBLIC

AGREED (unanimously) that under Section 100(A) of the Local Government Act 1972, the press and public be excluded from the meeting during discussion of the following items of business on the grounds that they involved the likely disclosure of exempt information as defined in Paragraphs 3 & 5 of Schedule 12A of the Act and that the public interest in maintaining the exemption outweighed the public interest in disclosing the information.

168. ENFORCEMENT MATTERS

The Committee considered the report of the Deputy Chief Executive which updated the Planning Committee regarding the legal agreements associated with Planning Application 05/01839/FULM, 07/00244/FULM, 05/01839/FULM and 08/01841/FULM – Residential development at Epperstone Manor, Main Street, Epperstone.

Members were informed of the ongoing residential development at Epperstone Manor, which had been under construction for many years, having slowed down significantly during the recession. All dwellings were nearing completion. The report informed the Committee that there had been a long and complex planning history regarding the site, the relevant parts were detailed within the report. The development had progressed to such a stage that Section 106 triggers had been hit and required actions from the developer, in terms of payments or transfer of land. The report outlined suitable action that could be undertaken and sought Committee authorisation.

(Summary provided in accordance with 100C(2) of the Local Government Act 1972).

The meeting closed at 7.47pm



<b>Application No:</b>	<b>17/01688/FUL</b>	
<b>Proposal:</b>	<b>Proposed residential development</b>	
<b>Location:</b>	<b>Platts Orchard, 39 Church Street, Southwell, NG25 0HQ</b>	
<b>Applicant:</b>	<b>Gascoine Group Ltd</b>	
<b>Registered:</b>	<b>25 September 2017</b>	<b>Target Date: 20 November 2017</b>
	<b>Extension of Time Agreed until 18<sup>th</sup> January 2018</b>	

**This application has been brought to the Planning Committee for consideration as Southwell Town Council object to the scheme which is different to the recommendation of officers.**

## The Site

The application site relates to a plot of land now occupied by a substantial modern 2 ½ storey dwelling which replaced a 1950s/60s era detached bungalow. The site is generally flat and is situated at the foot of a steeply rising hillside to the south of Burgage Lane. A public footpath is located to the north making the site visible from public vantage points. The dwelling on site is Plot 1 of 3 dwellings approved on appeal which have extant planning permission.

The remaining land within the site appears to have been left to vegetate naturally albeit part of the site appears to be used for the storage of a small amount of building materials. Potwell Dyke (a shallow fast flowing stream) runs along the eastern boundary. A number of mature and semi-mature trees are located on site around the periphery, with a group to the north-east, along the southern boundary with some also located alongside the access drive.

The site is located within the main built-up area of the town and within the Southwell Conservation Area. The site is also located within the Minster & Prebendage Character Area (as defined by the Council's Southwell Conservation Area Appraisal, adopted as a Supplementary Planning Document in July 2005).

The site lies within an area prone to surface water flooding and is adjacent to Flood Zones 2 and 3.

## Relevant Planning History

There is extensive planning history for this site with the most relevant highlighted by bold text:

15/00955/TWCA – Tree works agreed 13 July 2015.

15/00696/FUL – Householder application for erection of double garage with adjacent parking spaces, approved 9 June 2015.

**13/00920/FUL** - Variation of conditions 2 and 9 of planning application no. 07/00212/FUL to include 'Weinerberger Pastore Multi' bricks and natural slate roof tiles to be used in the development and for a maximum finished floor level to the dwelling on Plot 1 to 28.45m. Approved 10 February 2014.

**13/00791/NMA** - Application for a non-material amendment to planning application 07/00212/FUL for proposed demolition of existing bungalow and construction of three dwellings and garaging. Amendments related to retention of existing access, substitution of garage to a games room with windows instead of garage door, first floor to have rear facing enlargement by 1.5m. Approved on 15 July 2013.

11/00519/FUL - Construction of 3 dwellings and garaging (Application for a new planning permission to replace extant planning permission (07/00212/FUL)). Application withdrawn.

10/00325/FUL - Erection of 4 no. two storey detached houses with associated garages. This was refused on 14<sup>th</sup> May 2010 on grounds of (1) the proposed development would obscure important views through the conservation area from Church Street up to Hill House and thereby adversely affect the setting of this listed building, the character and appearance of the Southwell Conservation Area. The design and siting of Plot 1 was considered to not relate well to the established character of this part of the Southwell Conservation Area and would therefore have an adverse impact on its character and appearance; and (2) it didn't provide for any affordable housing on the site contrary to the Council's SPD.

07/01332/FUL - Proposed demolition of existing bungalow and construction of two dwellings and garaging (re-submission). Approved 7 November 2007.

**07/00212/FUL** - Proposed demolition of existing bungalow and construction of three dwellings and garaging. This application was refused on 18<sup>th</sup> April 2007 on grounds that (1) In the opinion of the Local Planning Authority, the proposal, by virtue of its inappropriate siting, density, height, massing, large overall size and scale, within this limited site in the Southwell Conservation Area and, in addition, the Southwell Minster and Prebendage Character Area, would result in the over-intensive development of this prebendal plot which would seriously adversely affect the character and appearance of both the Southwell Conservation Area and the Southwell Minster and Prebendage Area; and (2) In the opinion of the Local Planning Authority, the proposal, by virtue of its inappropriate siting, density, height, massing, large overall size and scale, would be out of keeping with the existing pattern, scale and character of development within this part of the Southwell Conservation Area and the Southwell Minster and Prebendage Character Area, to the detriment of those areas. **APP/B3030/A/07/2057937/NWF – This scheme was allowed on appeal on 6 June 2008.** Condition 1 required a start within 3 years (by 6 June 2011) and was implemented through the erection of Plot 1. Plot 2 (unbuilt but extant) is a 2 ½ storey dwelling whilst Plot 3 (unbuilt but extant) is 2 storey.

56840073 – Construction of garage, tool shed and garden store, approved 20 March 1984.

05/02311/FUL - Demolition of existing bungalow and construction of 5 attached houses. Refused on 16<sup>th</sup> December 2005 for reasons summarised as 1) over-intensive development which was considered out of character and harm to the amenities of neighbours, 2) harm to character and appearance of the CA and setting of listed buildings and 3) harm to trees from plots 3, 4 & 5 and the pressure for removal/pruning.

05/02330/CAC – Demolition of existing bungalow. Approved 19 December 2005.

### The Proposal

Full planning permission was originally sought for the erection of 4 detached market dwellings, each with four bedrooms. However in light of officers concerns, the scheme has been amended (on 20<sup>th</sup> November 2017) in terms of the layout, design and mix of dwellings. The scheme now includes a two bedroom dwelling, a three bedroom dwelling and 2 x 4 bedroom dwellings. The scheme has been assessed on the basis of the revisions.

Vehicular access would be taken from the existing drive serving the existing house with this being extended into the site which culminates in a turning head to the east. To the north of the access drive Plot 4 would be located immediately east of the existing house on site with Plot 3 adjacent to it. Plots 1 and 2 would be provided to the south of the access drive.

None of the dwellings have garages or outbuildings proposed. Each dwelling shows the provision of two off-street parking spaces within its curtilage.

The house types are set out below:

#### *Plot 1*

This would comprise a one and a half storey dwelling (over two floors) with accommodation comprising at ground floor a hall, w.c, living room and dining kitchen. At first floor is a master bedroom with en-suite, a further double bedroom and a separate bathroom.

The design is a simple pitched roof with external chimneystack and utilizing gabled dormers to the front elevation and roof lights to its rear. This would have a rectangular footprint with a frontage of c11.2m by 7.23m deep. The height to eaves is 3.84m whilst the ridge height is 7.96m (9.3m including the chimney).

#### *Plot 2*

This would also comprise a one and a half storey dwelling (over two floors) with accommodation comprising at ground floor a hall, w.c, living room, utility, study and dining kitchen. At first floor is a master bedroom with en-suite, two further double bedrooms, a single bedroom and a separate bathroom.

Again the design is a simple pitched roof with external chimneystack, utilizing gabled dormers to the front elevation and roof lights to its rear. This would have a rectangular footprint with a frontage of c14.36m by 7.2m deep. The height to eaves is 3.82m whilst the ridge height is 7.94m (9.4m including the chimney).

#### *Plot 3*

A one and a half storey dwelling over two floors with accommodation at ground level comprising a hall, w.c, living room, open plan kitchen diner/garden room and utility. At first floor is a master bedroom with en-suite, two further double bedrooms, a single bedroom and bathroom.

The design is again a simple pitched roof with external chimneystack but with front and rear

projecting gables giving the dwelling a T shaped footprint. This design utilizes a gabled dormer to the front and rear elevations, as well as windows within the gabled brickwork and a roof light to the rear. The dwelling would have a frontage of 11.6m by 11.46m deep. The height to eaves is 4m whilst the ridge height is 7.68m (the projecting gables are 7.21m) or 8.78m including the chimney.

#### *Plot 4*

A one and a half storey dwelling over two floors with accommodation at ground level comprising a hall, w.c, open plan kitchen diner/garden room, utility and snug/study. At first floor is a master bedroom with dressing area and en-suite, two further double bedrooms and a bathroom.

The design is again has a simple pitched roof and rectangular footprint but with part of the roof stepped down. This design utilizes gabled dormer windows to the front and rear elevations. The dwelling would have a frontage of 9.97m by 8.67m deep. The height to eaves is 3.9m whilst the ridge height is 7.8m, stepped down to 7.2m.

The application is accompanied by Design and Access Statement (revised 14/12/17), TF Architectural Services Ltd, Protected Species Survey, C B E Consulting, September 2017, Tree Survey, C B E Consulting, September 2017 and Flood Risk Assessment & Sustainable Drainage Assessment, Lumax Consulting Ltd, September 2017.

It should also be noted that the site plan and location plan were amended very slightly on 8<sup>th</sup> December 2017 (by reducing down the site) to remove part of the parking space of one plot from the ownership of an adjacent neighbour. On 14<sup>th</sup> December 2017 and 4<sup>th</sup> January 2018 amended plans were submitted which corrected some minor incorrect annotations and errors.

The following plans have been submitted and the application has been assessed on the basis of the latest version of these:

- Site Location Plan, 251/2016 Rev A (received 20/11/2017, revised again 08/12/2017)
- Existing Site Plan, 251/2016/01
- Proposed Plans & Elevations Plot 1, 251/2016/03 (received 20/11/2017, amended annotation 14/12/17)
- Proposed Plans & Elevations Plot 2, 251/2016/04 (received 20/11/2017, note incorrectly labelled plan, revised 14/12/2017)
- Proposed Plans & Elevations Plot 3, 251/2016/05 (received 20/11/2017, revised 14/12/2017)
- Proposed Plans & Elevations Plot 4, 251/2016/06 (received 20/11/2017, revised 14/12/2017 and 04/01/2018)
- Proposed Site Plan, 251/2006/02 Rev B (received 20/11/2017, revised on 08/12/2017, 14/12/2017 and 04/01/2018)
- Street Scene Plan, 251/2016/07 (labelled incorrectly as Proposed Plans & Elevations for Plot 1, received 20/11/2017, revised 14/12/2017).

#### Departure/Public Advertisement Procedure

A site notice has been displayed at the site and the application has been advertised in the local press. Thirteen neighbours have been notified individually by letter. The earliest date of decision is 26<sup>th</sup> October 2017.

## **Planning Policy Framework**

### **The Development Plan**

#### **Newark and Sherwood Core Strategy DPD (Adopted March 2011)**

Spatial Policy 1 Settlement Hierarchy  
Spatial Policy 2 Spatial Distribution of Growth  
Spatial Policy 6 Infrastructure For Growth  
Spatial Policy 7 Sustainable Transport  
Core Policy 1 Affordable Housing Provision  
Core Policy 3 Housing Mix, Type and Density  
Core Policy 9 Sustainable Design  
Core Policy 10 Climate Change  
Core Policy 14 – Historic Environment  
SoAP1 Role and Setting of Southwell

#### **Allocations and Development Management DPD (Adopted July 2013)**

Policy So/HN/1 Southwell Housing Need  
Policy So/PV – Southwell Protected Views  
Policy DM1 Development with Settlements Central to Delivering the Spatial Strategy  
Policy DM2 Development on Allocated Sites  
Policy DM4 - Renewable and Low Carbon Energy Generation  
Policy DM5 Design  
Policy DM7 Biodiversity and Green Infrastructure  
Policy DM9 Protecting and Enhancing the Historic Environment  
Policy DM12 Presumption in Favour of Sustainable Development

#### **The Southwell Neighbourhood Plan 2015-2026, adopted October 2016**

Policy SD1 – Delivering Sustainable Development  
Policy E1 – Flood Risk Assessments & Mitigation  
Policy E2 – Flood Resilient Design  
Policy E3 – Green Infrastructure & Biodiversity  
Policy DH1 – Sense of Place  
Policy DH2 – Public Realm  
Policy DH3 – Historic Environment  
Policy TA3 – Highways Impact  
Policy TA4 – Parking Standards  
Policy HE1 – Housing Type and Density

### **Other Material Planning Considerations**

National Planning Policy Framework (NPPF)

National Planning Policy Guidance (NPPG)

Southwell Conservation Area Appraisal Supplementary Planning Document adopted July 2005

## Consultations

**Southwell Town Council** – 11/12/2017 (In response to amended plans received 20/11/2017)

“Southwell Town Council considered application 17/01688/FUL Platt’s Orchard 39 Church St Southwell and agreed by majority to object to this proposal for the following reasons:  
It does not conform to the NP as follows:

Policy DH3 Historic Environment pg 48- The development will negatively impact on the spaces and relationship between listed buildings, particularly those associated with the Minster where the aim is to maintain a sense of place within and around its precinct.NP

It is within the historic core of Southwell and It is an over intensification of the area.

The town council endorses the comments of the conservation officer

Policy E1 Flood Risk Assessment and Mitigation, pg 24 - it does not use the most recent Flood Assessment with no reference to 2013 when the site was badly flooded.

Policy E2 Flood Resilient Design pg 29 Any design must not increase the risk of flooding on or off sites -included in the proposal are plans to discharge some water into the Potwell Dyke. The council are also concerned that the proposed tanks are not sufficient for a 1:100 flood. Testing should also be carried out to ensure the drainage solution proposed is sustainable.”

**Previously objected on 2/11/2017** (in relation to the original scheme)

“Southwell Town Council considered application 17/01688/FUL Platts Orchard 39 Church Street Southwell and agreed unanimously to object to the application for the following reasons:

It does not conform to the NP - The development will negatively impact on the spaces and relationship between listed buildings, particularly those associated with the Minster where the aim is to maintain a sense of place within and around its precinct.NP Policy DH3 Historic Environment page 48

It is within the historic core of Southwell

The town council endorses the comments of the conservation officer

It is an over intensification of the area

Planning History- a similar application was refused previously”

**NCC Highways** – Standing Advice Applies. However comments received 19/12/17 state:

“The amended layout as shown on drawing no. 251/2016/02 Rev. B is acceptable to the Highway Authority, therefore, there are no highway objections.”

**Southwell Civic Society** – Object (23/11/2017 – amended scheme)

“The Southwell Civic Society has examined the amendments and wish to confirm that our earlier comments still stand.

On a general point, we would also like to ask does the method of disposal of foul sewage have to be determined before planning consent can be granted? We note that on the application form the method of disposal is stated as unknown.”

Object (27/10/2017 –in relation to original scheme)

“This site has a long history of planning applications as described in the Design and Access Statement. Applications for five and four houses have been refused in the past, as was the current three-house scheme, which was only approved on Appeal.

The scheme proposed is to cram four uninspiring pedestrian houses (with inadequate garaging and car parking provision), into a small plot whereas the character of this part of the Conservation Area is for large houses in large plots. This is contrary to Policy DH3 of the Neighbourhood Plan.

Our views are eloquently described in the Conservation Officer’s report which we fully support and endorse.”

**The Environment Agency** – The application is of low environmental risk and we have no detailed comments to make.

**NCC (Lead Local Flood Authority)** – No objection. (26/11/2017)

**Trent Valley IDB** ‘The site is outside of the Trent Valley Internal Drainage Board district but within the Board’s catchment.

There are no Board maintained watercourses must not be increased as a result of the development.

The design, operation and future maintenance of site drainage systems must be agreed with the Lead Local Flood Risk Authority and Local Planning Authority.’

**NSDC (Access and Equalities Officer)** - Makes general observations.

**Ramblers Association** – This development seems to be sited at a significant distance from the nearest right of way (Southwell Footpath 68) and we have no objection.

**NSDC Environmental Health** – The proposed development is in a potentially Radon Affected Area\*. These are parts of the country where a percentage of properties are estimated to be at or above the Radon Action Level of 200 becquerels per cubic metre (Bq/m<sup>3</sup>). Given the above I advise that it would be prudent for the applicant to investigate if the proposed development will be affected by radon and incorporate any measures necessary into the construction to protect the health of the occupants. Further information is available on the council's website at: <http://www.newark-sherwooddc.gov.uk/radon>

\*based on indicative mapping produced by the Public Health England and British Geological Survey Nov 2007

**NSDC (Conservation)** – Comments as follows on 23<sup>rd</sup> November 2017 in relation to the amended plans:

“Many thanks for consulting Conservation on amended plans for the above proposal. We provided formal comments on the scheme back in October, objecting to the proposed scale and layout of the development.

We have reviewed the revised plans and layout and consider that the amendments significantly address the concerns previously raised. The development has a more coherent courtyard feel to it which is more appropriate to the character of the conservation area, and the modest cottage scale of the dwellings ensures that the development is not unduly prominent. On balance therefore, and in the context of the fall-back position, we consider the development to now be acceptable. In reaching this view, I have carefully considered the special interest of the Southwell Conservation Area and the setting of listed buildings nearby in accordance with objectives and policies contained within the Planning (LBCA) Act 1990, CP14 and DM9 of the Council’s LDF DPDs, and section 12 of the NPPF.

The development will benefit from using appropriate materials and details, including timber joinery and non-interlocking clay pantiles.”

Comment as follows on 23/10/2017 in relation to original plans:

#### “Introduction

Platts Orchard is located within Southwell Conservation Area (CA). There are an extensive number of listed buildings within the vicinity, including: 41 (boundary wall separately listed), 43, 45 and 47 Church Street (all Grade II); Potwell Dyke Bridge (Grade II); The Old Rectory (Grade II); Cottage adj South Muskham Prebend (Grade II); South Muskham Prebend (Grade II); Hill House (Grade II); and Normanton Prebend (Grade II). In the wider area, the Minster is a significant national landmark (Grade I).

The proposal site benefits from an implemented scheme for three large dwellings, of which, unit 1 has been constructed (approved via appeal; ref 07/00212/FUL). The applicant has sought pre-application advice on the submitted scheme.

#### Legal and policy considerations

Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the ‘Act’) requires the Local Planning Authority (LPA) to pay special regard to the desirability of preserving listed buildings, their setting and any architectural features that they possess. In this context, the objective of preservation is to cause no harm, and is a matter of paramount concern in the planning process. Section 72 requires the LPA to pay special attention to the desirability of preserving or enhancing the character and appearance of conservation areas. In this context, the objective of preservation is to cause no harm, and is a matter of paramount concern in the planning process. The courts have said that these statutory requirements operate as ‘the first consideration for a decision maker’.

Policies CP14 and DM9 of the Council's LDF DPDs, amongst other things, seek to protect the historic environment and ensure that heritage assets are managed in a way that best sustains their significance.



The importance of considering the impact of new development on the significance of designated heritage assets, furthermore, is expressed in section 12 of the National Planning Policy Framework (NPPF). Paragraph 132 of the NPPF, for example, advises that the significance of designated heritage assets can be harmed or lost through alterations or development within their setting. Such harm or loss to significance requires clear and convincing justification. The NPPF also makes it clear that protecting and enhancing the historic environment is sustainable development (paragraph 7). LPAs should also look for opportunities to better reveal the significance of heritage assets when considering development in conservation areas (paragraph 137).

The setting of heritage assets is defined in the Glossary of the NPPF which advises that setting is the surroundings in which an asset is experienced. Paragraph 13 of the Conservation section within the Planning Practice Guidance (PPG) advises that a thorough assessment of the impact on setting needs to take into account, and be proportionate to, the significance of the heritage asset under consideration and the degree to which proposed changes enhance or detract from that significance and the ability to appreciate it.

Additional advice on considering development within the historic environment is contained within the Historic England Good Practice Advice in Planning (HEGPAP; notably Notes 2 and 3). In addition, 'Historic England Advice Note 2: making changes to heritage assets' advises that the "main issues to consider in proposals for additions to heritage assets, including new development in conservation areas, aside from NPPF requirements such as social and economic activity and sustainability, are proportion, height, massing, bulk, use of materials, durability and adaptability, use, enclosure, relationship with adjacent assets and definition of spaces and streets, alignment, active frontages, permeability and treatment of setting. Replicating a particular style may be less important, though there are circumstances when it may be appropriate. It would not normally be good practice for new work to dominate the original asset or its setting in either scale, material or as a result of its siting" (paragraph 41).

The adopted Southwell CA Appraisal (2005) provides a useful assessment of the CA, including its origins, settlement layout patterns and architectural interest. The Nottinghamshire Extensive Urban Survey (EUS) Archaeological Assessment for Southwell (English Heritage; 2001) is also helpful.

#### Significance of heritage asset(s)

Southwell Conservation Area (CA) was first designated in 1968 and extended in 1970 and 1993. The Council produced an Appraisal of the CA in 2005 following a further review and again amended the boundary.

The existing CA boundary has been drawn to include the Minster Church and distinctive Prebendal area, the historic commercial centre of King Street and Queen Street, the Burgage and the former hamlets of Easthorpe and Westhorpe. Key features of the conservation area are the presence of the Minster church, its well-preserved historic layout, the high proportion of listed buildings and unlisted buildings of quality, its strong character areas and its attractive landscape setting. The Minster is a prominent landmark within the town and can be seen for miles around.

The proposal site falls within the Minster and Prebendal character area, although abounds the Easthorpe character area on its eastern edge (divided by the Potwell Dyke). There are quite a significant number of large houses in the Minster character area, most of which are Prebendal houses, or their replacements, set within their own grounds. These were the residences of the prebendaries (secular canons) who were supported by income from endowments of properties and tithes known as prebends. By the end of the 13<sup>th</sup> century, sixteen prebends and prebendal

houses had been established. There are now only nine remaining and none is the original building although parts of the originals have been incorporated into the fabric of some of the new. The proposal site lies within land associated with South Muskham Prebend.

The number of listed buildings and unlisted buildings of local character in this area is high. Buildings tend to be large, well-proportioned and individually designed. Most have brick boundary walls. The character to the east of the Potwell Dyke is markedly different in terms of buildings and layout, with a close-knit arrangement of cottages and houses onto the roadway within long perpendicular plots. The higher, open areas to the north of the proposal site include a network of footpaths which provide a positive landscape experience of the CA and historic buildings in the Minster area (views from the footpath along the edge of Normanton Prebend, for example, and from across the field enclosure on approach to Church Street).

### Assessment of proposal

On balance, Conservation objects to the proposed development.

Whilst it is recognised that the fall-back position is a significant material consideration, the two further large dwellings already approved at least have a courtyard setting which better reflects the Minster and Prebendal character area. The layout and intensity of the proposed new development fundamentally results in a cramped arrangement which harms the character and appearance of the CA. Although the reduction in heights of buildings from the fall-back position is positive, the respective building heights are over 7m to the ridge, which, combined with large footprints, results in a sizeable mass and scale. The individual designs of the proposed buildings is not out of character with the cottage vernacular of Easthorpe, but the cramped cul-de-sac arrangement is alien to the positive historic settlement pattern of the medieval Prebendal area, noting the significance and contextual relationships between South Muskham Prebend and Normanton Prebend.

It is acknowledged that the development site is not prominent to Church Street behind no. 41 and enjoys good landscape screening on its north and eastern boundaries. The PPG reminds us however that whilst the extent and importance of setting is often expressed by reference to visual considerations, the way in which we experience an asset in its setting is also influenced by other factors, and by our understanding of the historic relationship between places, noting that buildings that are in close proximity but not visible from each other may have “a historic or aesthetic connection that amplifies the experience of the significance of each”. In this case, the intense and cramped arrangement of new dwellings will have a significant impact on the setting of no 41, and the adjacent buildings within the Prebendal plots. Given that the proposal site is visible from the higher ground to the northwest, an area which provides important open setting to the CA and grounds of Hill House and Normanton Prebend, extensive new development as proposed will have a significant impact on the significance of the CA and setting of listed buildings (notably South Muskham Prebend, the cottage range associated with South Muskham Prebend and Normanton Prebend).

### Summary of opinion

In its current form, the proposal is considered to harm the character and appearance of the Southwell Conservation Area and the setting of nearby listed buildings contrary to the objective of preservation under sections 66 and 72 of the Act. The proposal also contradicts heritage objectives within the LDF DPDs and section 12 of the NPPF. For the purposes of paragraphs 132-134, the

harm identified is less than substantial. Whilst Conservation recognises that the fall-back position is a significant consideration, it is felt that the detached arrangement of dwellings is materially worse than the fall-back position, despite the reduction in building heights. Conservation also acknowledges that the applicant sought pre-application advice and the concept of one and a half storey development was given a positive response by Conservation subject to precise design and layout details. However, it was made clear that an overly intense and disordered arrangement of detached dwellings would be seen as harmful, Conservation advising instead that continuous rooflines around a courtyard type arrangement would be preferred (this would help give the appearance of subservient outbuilding/mews cottage type layouts which would be more appropriate in this context).

In addition to the above, the applicant claims that a Heritage Impact Assessment (HIA) is not required in this case. However, this contradicts advice within paragraph 128 of the NPPF. The Conservation Team would not wish to put the applicant to any unnecessary costs, but they should note that an HIA may help the applicant in this case explain the rationale behind their design and layout in the context of the rich historic environment which surrounds it.”

**Six representations have been received (objections) making the following summarised comments:**

- Previous concerns were that scheme for 5 dwellings was unacceptable and a scheme for 2 dwellings was acceptable. Main concerns previous to the appeal that was allowed related to massing rather than footprint;
- None of the houses would have garages and are out of character with the Conservation Area;
- The number of dwellings (5 including the dwelling already built) is against what the Council have already objected to;
- Highway safety concerns - entrance to the site is at very worst section of this busy and dangerous road. There is blind corner in the direction of the Minster and cars are always parked the other way;
- Flood Risk concerns - concerned that this will place additional burden on the already fragile and vulnerable drainage system. Extreme weather is predicted and after 2 major flooding events in 6 years caution would be expected from the Council to new development;
- Some developers have included flood mitigation in their plans but there is no guarantee that these will make much difference;
- The Flood Study Report does not appear to detail any flooding to the actual development site. We have not been made aware of flooding to the site itself although it is understood that the culvert beneath Church Street does overtop and floods the residential property to the east of the site and other properties on the east of the Potwell Dyke;
- Other properties in the immediate area have flooded in 2013 as well as this application site.
- In 2013 Plot 1 was under early construction and the force of the pluvial flooding flattened this brickwork. It is evident that the pluvial flooding had come down Church Street, straight through the properties North Muskhams Prebend and The Coach House. The water then escaped across Platt's Orchard into the course of the Potwell Dyke.
- Additionally, The Potwell Dyke burst its banks that evening, causing significant flooding to the proposed site and my garden.

- There is no affordable accommodation element which is a prerequisite in this expensive area.
- Piecemeal infilling is problematic, not necessary nor sensible given the circumstances.
- Both the site lay out and location plan are misleading as they show an inaccurate layout of the plot.
- The boundary between 41 Church Street and Platts Orchard is parallel to the driveway to Platts Orchard for approximately 30m. At that point it turns at the right angle and goes towards the stream in a straight line.
- The plans submitted show that the site is larger than it actually is, and a corner of the parking space for plot 1 is within the boundary of 41 Church Street (site plan has subsequently been amended to remove this)
- Amendments haven't altered the objections
- There is supposed to be a policy on non back development

### Comments of the Business Manager – Growth and Regeneration

The Council is of the view that it has and can robustly demonstrate a 5 year housing land supply. This has been rehearsed many times before with Members. I do not intend to rehearse this in full other than to say that the policies of the Development Plan are considered up to date for the purposes of decision making.

### Principle of Residential Development

The principle of new dwellings on this site has been established through the granting of planning permission for three dwellings on appeal, one of which is already built out. For clarity there remain two dwellings, one 2 ½ storey and one 2 storey that are extant and could be erected at any time providing a strong and realistic fallback position. This is a significant material consideration.

In any event Southwell is defined as a 'Service Centre' in the District's Settlement Hierarchy and as such is considered to be a sustainable location for the provision of new houses.

Increasing the number of houses on this site would be welcomed as a matter of principle but is subject to assessment against the Development Plan. Clearly since the appeal was allowed in 2008, the Development Plan has changed and there are a number of considerations that need to be considered afresh having regard to the fallback position.

### Housing Density, Mix and Need

Core Policy 3 provides that development densities should normally be no lower than 30 dwellings per hectare net. It goes on to say that development densities below this will need to be justified, taking into account individual site circumstances.

This application proposes 4 dwellings on a site area of 0.20 hectares equating to an average density of c20 dwellings per hectare. This is lower than what both CP3 envisages however is higher than the extant appeal which I must give weight to.

Paragraph 50 of the NPPF states that "To deliver a wide choice of high quality homes, widen opportunities for home ownership and create sustainable, inclusive and mixed communities, local planning authorities should,

- plan for a mix of housing based on current and future demographic trends, market trends and the needs of different groups in the community (such as, but not limited to, families with children, older people, people with disabilities, service families and people wishing to build their own homes)
- identify the size, type, tenure and range of housing that is required in particular locations, reflecting local demand...”

The Development Plan (in terms of the policies identified below) reflects and is compliant with the NPPF. The Council has sought to plan for a mix for communities and has identified the size, type and range of housing that is required taking into account local demand as is reflected in the following policies.

CP3 also states that the LPA will seek to secure new housing which adequately addresses the local housing need of the district, including the elderly and disabled population. Mix will be dependent on the site location (in terms of settlement), local circumstances, viability and any local housing need information. In a Southwell context, there is a locally identified housing need (which has been through independent Plan Examination).

Irrespective of the Southwell need policy, which I will come on to, I have considered whether the ‘mix’ of this scheme is acceptable in its own right, having regard to a very clear and long-established national policy aspiration for balanced communities and to the local context in terms of housing provision. It appears to me that the vast majority of dwellings in this area are larger family homes with the dominance tending to be larger detached family houses. I am mindful that as amended the scheme does seek a better mix than previously proposed with a 2 bedroom house, a 3 bedroom house and 2 x 4 bedroom houses. Overall I consider that this mix is more appropriate for the area than both the proposal as originally submitted and the fallback position.

### *Housing Need*

One of the key changes to the Development Plan in respect of Southwell since the extant appeal decision, has been the introduction of the policies to manage housing need. Policy So/HN/1 seeks to address housing need issues within Southwell and reflects the need for smaller properties to accommodate an ageing population as well as young people wishing to stay in the area.

Accordingly the policy, subject to local site circumstances and viability, seeks to secure the majority of new housing on allocated and windfall sites as one or two bedroom units in line with identified housing needs. This aspiration is also reflected in the Southwell Neighbourhood Plan and is in line with the National Planning Policy Framework which seeks to ensure sites ‘*deliver a wide choice of high quality homes....and.... plan for a mix of housing...’*.

I note that the remaining (extant) two houses to be built out comprise Plot 2; a 4 bedroom two storey property and Plot 3; a 5 bedroom two-and-a-half storey dwelling.

The scheme as originally proposed effectively sought to double the number of units on the site and not one of these were to be a smaller dwelling to meet the identified need. This revised scheme would now provide for one of the dwellings to be a two bedroom property. In order to comply with the local policy, the majority of the dwellings (i.e. technically more than half) would need to have one or two bedrooms. However having regard to the fallback position, I consider that a reasonable approach is that half of the ‘additional’ units should be 1 or 2 bedroom dwellings

which the applicant has now accepted and the proposal reflects this. I also note that the provision of a 3 bedroom dwelling, whilst not directly meeting the local need, does however add to a better mix overall on the site when compared to the fallback position of executive 4 and 5 bedroom dwellings. Whilst this revised scheme still does not technically meet the requirement of So/HN/1, I consider that this is reasonable taking account the fallback position. Overall I consider that the scheme now provides for an appropriate density, mix and arguably has sought to address local need.

### Design, Impact on Visual Amenity and Character of the Area (including Heritage Considerations)

Core Policy 9 requires a high standard of sustainable design that protects and enhances the natural environment and contributes to the distinctiveness of the locality and requires development that is appropriate in form and scale to the context. Policy DM5 mirrors this. In addition CP14 seeks to secure the continued preservation and enhancement of the character and appearances and setting of the districts heritage assets and historic environment. DM9 requires that proposals take account of the distinctive character and setting of individual conservation areas and reflect this in their design, form, scale, mass and use of materials and detailing, a matter echoed in DH2 of the SNP.

The layout of the extant appeal scheme provides a layout of 3 large dwellings which combine to create a courtyard layout. The footprint of the dwellings was extensive but the bulk and massing was broken up by differing roof heights. By contrast the scheme as originally advanced proposed four detached boxes sat round a modern cul-de-sac arrangement, a matter to which officers raised concerns. The revisions now show a layout arranged to appear as a courtyard approach more akin to the allowed appeal scheme.

Whilst Plot 2 of the extant appeal scheme would be located to the north-eastern corner of the site (adjacent to Plot 1) and was 8.55m in height across its main bulk (with a projecting gable rising to 9.5m), the built form proposed by this application would now have Plots 3 and 4 which are more modest in scale and form with maximum ridge heights of 7.68 and 7.8m. Plot 3 of the appeal scheme was a more modest 7.26m to ridge which would be replaced with Plots 1 and 2 of this application and is broadly comparable with the 7.9m heights proposed. Overall I consider that the design, layout and massing is acceptable and marginally preferable in my view than the appeal scheme.

Indeed I note that my Conservation colleague agrees that the revisions make the scheme acceptable:

*“We have reviewed the revised plans and layout and consider that the amendments significantly address the concerns previously raised. The development has a more coherent courtyard feel to it which is more appropriate to the character of the conservation area, and the modest cottage scale of the dwellings ensures that the development is not unduly prominent. On balance therefore, and in the context of the fall-back position, we consider the development to now be acceptable.”*

Overall the scheme as amended is judged by officers to be acceptable and in line with CP9, CP14, DM5 and DM9 of the Development Plan.

### Highway and Parking Matters

Spatial Policy 7 indicates that proposals should minimise the need for travel, through measures such as travel plans or the provision or enhancement of local services and facilities and provides

that proposals should be appropriate for the highway network in terms the volume and nature of traffic generated and ensure the safety, convenience and free flow of traffic using the highway are not adversely affected; and that appropriate parking provision is provided. Policy DM5 echoes this.

I note the concerns raised in relation to highway safety from neighbours and interested parties. Standing Advice applies to this scheme and NCC Highways Authority will no longer provide bespoke comments on a scheme of 5 houses or less on roads with a speed limit of 30mph unless they are within 20m of a junction or 50m of a school. As this scheme meets the criteria, Standing Advice would apply.

I have assessed the scheme against the Standing Advice and it is my opinion that the highway width of 5.25m is appropriate and the necessary visibility splay can be achieved. The proposed parking provision for each plot is satisfactory and accords with the Advice. Based on the Advice I do not consider there are any insurmountable issues that would warrant a reason for refusal on highways safety or parking grounds. Indeed I note that the NCC Highways Authority have confirmed this to be the case.

### Drainage/Flood Issues

Core Policy 9 (Sustainable Design) provides that development should 'through its design, proactively manage surface water, where feasible, the use of Sustainable Drainage Systems.' CP10 seeks to mitigate the impacts of climate change whilst Policy DM5 also seeks to ensure development is safe for the intended users without increasing flood risk elsewhere. This broadly reflects the advice in the NPPF.

The site lies in Flood Zone 1 which is at lowest risk of flooding but is within an area prone to surface water flooding. Given the flood events in recent years in Southwell the applicant has provided a Flood Risk Assessment as requested. I note that the Town Council raise objection on flood grounds.

The FRA concludes that the site is not subject to any significant flood risk although the combination of flood history and modeling suggests there may be some residual risk associated with overland flooding. It recommends finished floor levels are set 600mm above existing ground levels in order to limit the risk. It also indicates that external levels will be set so as to provide flood routes through the site to compensate for any loss of conveyance associated with the raised floor levels. A sustainable drainage system to restrict flow from the site to 5l/s has been proposed and up to 81m<sup>3</sup> storage may be required to fully attenuate flows from the proposed development. Attenuation would be located in storage crates or subbase beneath permeable paving. Outfall from the development will be to the Potwell Dyke at the restricted rate proposed.

The LLFRA have not commented on the scheme to date. However I am conscious of the extant appeal decision and that fact that the two schemes are practically identical in terms of footprint. Indeed I note that the appeal Inspector did not impose conditions relating to either surface water drainage or foul sewage disposal (a matter which would ordinarily be dealt with following a grant of planning permission with STW/Building Regulations). However given the flood sensitivities of the site and the findings of the FRA, I consider that this is material and I am satisfied that mitigation and compensation can be dealt with via condition in the event that the scheme was considered acceptable and conclude that there is no reason to withhold permission on flood risk or surface water drainage grounds.

### Impact on Ecology

Core Policy 12 and Policy DM7 promote the conservation and enhancement of the District's biodiversity assets. The NPPF also seeks to minimise impacts on biodiversity and provide net gains where possible.

The site has essentially been allowed to vegetate and is surrounded by mature landscaping and trees with a watercourse along the eastern boundary. As such an ecological appraisal has been requested and provided.

This concludes that the site has low ecological value and recommends that vegetation clearance is undertaken outside of bird breeding season that given the potential for foraging bats external lighting is properly considered and controlled to retain a dark corridor along the Potwell Dyke. Potential for some ecological enhancement was also identified through any native landscaping and by installing bat and bird boxes. Overall I consider that the impact of the scheme upon the ecological value of the site is acceptable subject to conditions.

### Impact on Trees

Policies CP12 and DM5 seek to protect and enhance natural features where possible. Policy CP9 requires proposals *'to demonstrate a high standard of sustainable design that both protects and enhances the natural environment and contributes to and sustains the rich local distinctiveness of the District.'*

There are a number of mature and semi-mature trees within the site and the applicant has submitted an Arboricultural Survey in support of the scheme. This identifies 8 trees as B grade trees; those which have moderate quality and value and where it is desirable to be retained. It also identifies 9 category C trees (generally those of low quality in adequate condition or young trees) which could be retained albeit I note that not all of the trees surveyed are within the defined application site.

The development within the site would require the removal of some 8 trees to accommodate the dwellings albeit most of these are low or poor quality specimens. I do however note that the scheme would necessitate the removal of a reasonably prominent Sycamore tree (T1) at the junction of the access to allow adequate highway visibility. The tree survey categorizes this as B1 grade which is of moderate quality and value and where it would be desirable to be retained. Its loss is regrettable but is necessary to make the access safe from a highway safety perspective. What has become clear during the consideration of this application is that this Sycamore tree should have already been removed to provide for adequate visibility for the existing dwelling which is already occupied. There is therefore a technical breach of Condition 8 of planning permission 07/00212/FUL which will be taken forward separately. As such there are no grounds to resist the removal of this tree and in any event there are other trees nearby to maintain canopy cover along the road including a Yew situated in the adjacent garden.

The survey recommends that root protection is provided through a barrier such as tree protection fencing during construction. I am satisfied that this matter could be controlled by condition in the event that the application is approved.

In relation to the original plans concern was raised that Plots 1, 2 to 4 were to be located very close to both the root protection zone of the trees and their canopies leaving no space for the



trees to mature and grow and would likely mean that there would be pressure to lop, top and/or fell trees due to the impact upon the proposed occupiers. Concern was also raised that the space that the dwellings would have would be severely restricted and overshadowed with occupiers having to constantly manage their space which was a symptom of the overdevelopment of the site. However in relation to the amended plan, by reducing the size of the dwellings and their re-siting where possible away from large retained trees, I am satisfied that the impacts have been improved to an acceptable degree.

#### Impact on Residential Amenity.

Policy DM5 requires development to be acceptable in terms of not having a detrimental impact on residential amenity both in terms of existing and future occupiers. Indeed 'always seeking to secure a good standard of amenity for existing and future occupants of land and buildings' is one of the 12 core planning principles set out in the NPPF.

There are two dwellings that have the potential to be impacted by this development which I have carefully assessed below:

#### *41 Church Street*

No. 41 Church Street lies to the east of the access drive fronting onto the roadside and would be to the south of the development. The dwelling is located approximately 13m from the boundary which is formed by mature trees and vegetation which would be retained according to the application.

The extant appeal scheme accepted that a distance between no. 41 and the nearest proposed dwellings (Plot 3 of the appeal scheme) would have been located approximately 12 metres away from the rear elevation at its nearest point. Whilst this is a relatively short distance, the proposed dwelling would be sited to the north, and angled away from, No. 41 and it was noted there would be no windows or other openings above ground floor level, except for a single roof light serving the internal staircase and landing.

This scheme now being considered would place Plot 1 directly north and further away than the previously allowed built form by approximately 1.7m. Plot 1 has been designed so that at first floor level along its rear elevation facing the neighbour would be served by only roof lights to a bathroom and landing.

Plot 2 would lie to the north-east and would have its side gable facing south towards the neighbour. There is only one window proposed in this elevation which is at first floor serving an en-suite which would be obscure glazed.

There are 3 trees along this boundary in the vicinity of Plot 2 to its south; one appears to be in the ownership of no. 41, whilst the other two are an Ash Tree (T12; to be retained; B2 categorization) within the south-western corner of plot 2 and a Damson (T14, an ungraded tree shown to be retained but is recommended in the supporting tree report as being removed and replaced. This tree lies to the south-eastern corner of Plot 2.

Concerns had previously been raised that the privacy of the neighbour relied upon the retention of a tree that is identified as not worthy of being retained (and thus a tree application for its removal could come forward at a later date which could not be resisted). However the re-orientation and

redesign of Plot 2 now means that the dwelling would be marginally further away from the existing neighbour than the extant permission and lie approximately 9.7m from the boundary at its closest point. I consider that this relationship is improved (and acceptable) over the extant permission and avoids direct overlooking.

### *53 Church Street*

The rear elevation of Plot 2 would face east towards the rear of No. 53 Church Street and what appears to be its large rear garden. Plot 2 would be between 5 and 8m from the boundary (the extant permission distance was c10m) with No. 53. I note that the Council previously acknowledged the short distance but gave weight to the retention of the trees. In this instance only four rooflights (providing light to the landing, en-suite and bedroom) are proposed along the rear elevation facing the neighbour so I am satisfied that no direct overlooking issues would occur. Overall I consider that the proposal would not cause unacceptable impacts upon the occupiers of this property.

### *Amenity space for the Proposed Occupiers*

With relation to the original layout, concerns had been raised regarding the level of amenity space for three of the plots when having regard to the retention of existing trees. However the revisions have now increased the amount of amenity space to be provided for each dwelling to an acceptable degree.

### Other Matters

#### *Archaeology*

Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the 'Act') requires the Local Planning Authority (LPA) to pay special regard to the desirability of preserving listed buildings, their setting and any architectural features that they possess. In this context, the objective of preservation is to cause no harm. The courts have said that these statutory requirements operate as a paramount concern, 'the first consideration for a decision maker'. Planning decisions require balanced judgement, but in that exercise, significant weight must be given to the objective of heritage asset conservation.

Policies CP14 and DM9 of the Council's LDF DPDs, amongst other things, seek to protect the historic environment and ensure that heritage assets are managed in a way that best sustains their significance. Policy DH3 of the SNP also requires the investigation of potential archaeology on the site and any necessary post-determination mitigation measures secured by way of condition.

The importance of considering the impact of new development on the significance of designated heritage assets, is expressed in section 12 of the NPPF. Paragraph 132 of the NPPF, for example, advises that the significance of designated heritage assets can be harmed or lost through alterations or development within their setting. Such harm or loss to significance requires clear and convincing justification. The NPPF also makes it clear that protecting and enhancing the historic environment is sustainable development (paragraph 7). LPAs should also look for opportunities to better reveal the significance of heritage assets when considering development within their setting (paragraph 137).

The setting of heritage assets is defined in the Glossary of the NPPF which advises that setting is the surroundings in which an asset is experienced. Paragraph 13 of the Conservation section within the Planning Practice Guidance (PPG) advises that a thorough assessment of the impact on setting needs to take into account, and be proportionate to, the significance of the heritage asset under consideration and the degree to which proposed changes enhance or detract from that significance and the ability to appreciate it. Paragraph 13 also reminds us that the contribution made by setting does not necessarily rely on direct intervisibility or public access.

Additional advice on considering development within the historic environment is contained within the Historic England Good Practice Advice Notes (notably GPA2 and GPA3). In addition, 'Historic England Advice Note 2: making changes to heritage assets' advises that the main issues to consider in proposals for additions to heritage assets, aside from NPPF requirements such as social and economic activity and sustainability, are proportion, height, massing, bulk, use of materials, durability and adaptability, use, enclosure, relationship with adjacent assets and definition of spaces and streets, alignment, active frontages, permeability and treatment of setting. Replicating a particular style may be less important, though there are circumstances when it may be appropriate. It would not normally be good practice for new work to dominate the original asset or its setting in either scale, material or as a result of its siting (paragraph 41).

In respect of this particular site no heritage assessment has been submitted in support of the application and the Design and Access Statement is silent on the matter.

I note that the extant appeal decision dealt with archaeological mitigation by way of a condition. In response to the request to discharge the said condition, I note that archaeological works that had been started on the site had uncovered parts of the site that had a significant archaeological interest and that further mitigation was required in order to fulfill the condition which was not discharged. I am currently unclear as to whether these works were ever resolved but nevertheless consider that in the event of an approval a condition to require a scheme of mitigation could be re-imposed.

### Planning Balance and Conclusion

It is considered that residential development is acceptable in principle on this site as it occupies a sustainable location and indeed it is acknowledged that there is an extant permission on the site for two large detached dwellings which must attract significant weight as a realistic fallback position.

Whilst comments had not been received from the Highways Authority or the Lead Flood Authority at the time of going to print, having regard to Standing Advice and the extant permission it is considered that the scheme cannot justify grounds for refusal in relation to highway safety or flood risk. I also consider the scheme is satisfactory in relation to ecology.

Following revisions to the scheme during the life of the application, I am now satisfied that the impact upon the Conservation Area is acceptable. In my view the impact upon the amenity of neighbours and affected trees is also now acceptable.

With regard to housing mix, the inclusion of 2 and 3 bedroom dwellings as well as two 4 bedroom dwellings does now constitute an appropriate mix in line with CP3. Having regard to the fallback position of two large detached dwellings, the scheme does now provide for 50% smaller dwelling of the uplift in the number of units from the fallback position, which attracts significant weight in my view. This also represents a reasonable and pragmatic approach which would assist in

delivering more family size dwellings in a sustainable settlement where there appears to be a need. I do not consider that the lower than average density is a factor upon which the scheme should fail given the findings of the previous appeal Inspector.

It is acknowledged that the Council's 5YHLS position cannot yet attract full weight until such time as the OAN has been ratified through the Plan Review process. However the Council is of the opinion that it can robustly demonstrate a 5 year land supply and consequently it attracts significant weight in my view.

Taking all matters into account, including the realistic fallback position, I find that the harm that I previously identified with the original plans has been adequately overcome through revision. I therefore recommend that planning permission is granted subject to the following conditions.

**RECOMMENDATION:**

**That full planning permission is approved subject to the following conditions:**

**Conditions:**

01 (Time for Implementation)

The development hereby permitted shall not begin later than three years from the date of this permission.

Reason: To comply with the requirements of Section 51 of the Planning and Compulsory Purchase Act 2004.

02 (Approved Plans)

The development hereby permitted shall not be carried out except in complete accordance with the following approved plans referenced below:

Plan received 20<sup>th</sup> November 2017:

- Site Location Plan, 251/2016 Rev A (received 8<sup>th</sup> December 2017)

The following plans received 14<sup>th</sup> December 2017:

- Proposed Plans & Elevations Plot 1, 251/2016/03
- Proposed Plans & Elevations Plot 2, 251/2016/04
- Proposed Plans & Elevations Plot 3, 251/2016/05
- Street Scene Plan, 251/2016/07

The following plans received 4<sup>th</sup> January 2018:

- Proposed Plans & Elevations Plot 4, 251/2016/06 (received
- Proposed Site Plan, 251/2006/02 Rev B (received 4<sup>th</sup> January 2018)

unless otherwise agreed in writing by the local planning authority through the approval of a non-material amendment to the permission.

Reason: So as to define this permission.

03 (Archaeology - re-imposed appeal condition)

The development shall not commence until details of a scheme for archaeological mitigation has been submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be carried out in accordance with the approved scheme.

Reason: In the interests of affording protection to the archaeological interest of the site.

#### 04 (Tree Protection Measures)

No development shall be commenced until the trees shown to be retained within the Tree Survey, C B E Consulting, September 2017 have been protected by the following measures:

- a) a chestnut pale or similar fence not less than 1.2 metres high shall be erected at either the outer extremity of the tree canopies or at a distance from any tree or hedge in accordance with details to be submitted to and approved in writing by the local planning authority;
- b) no development (including the erection of site huts) shall take place within the crown spread of any tree;
- c) no materials (including fuel and spoil) shall be stored within the crown spread of any tree;
- d) no services shall be routed under the crown spread of any tree
- e) no burning of materials shall take place within 10 metres of the crownspread of any tree.

The protection measures shall be retained during the development of the site, unless otherwise agreed in writing by the local planning authority.

Reason: To ensure that existing trees and hedges to be retained are protected, in the interests of visual amenity and nature conservation.

#### 05 (Levels condition re-imposed from appeal decision)

The development hereby permitted shall not be commenced until details of the finished floor levels of the dwellings proposed in relation to the existing and finished ground levels of the site and the ground floor levels at 41 Church Street have been submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be carried out in accordance with the approved details.

Reason: In the interests of residential amenity.

#### 06 (Protection to Breeding Birds)

No hedge or tree that is to be removed as part of the development hereby permitted shall be lopped, topped, felled or otherwise removed during the bird nesting period (beginning of March to end of August inclusive) unless otherwise agreed in writing by the local planning authority.

Reason: To ensure that adequate provision is made for the protection of nesting birds on site as recommended by the Protected Species Survey by CBE Consulting dated September 2017 which supports the planning application.

#### 07 (Ecological Enhancements)

No development shall commenced until a scheme for ecological enhancement has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include but is not limited to the provision of bird and bat boxes. The approved scheme shall be implemented in full in accordance with the scheme for enhancement to an agreed timescale and shall thereafter be retained for the lifetime of the development.

Reason: In order to comply with the Development Plan and the NPPF and in line with the recommendations of the Protected Species Survey by CBE Consulting dated September 2017 which supports the planning application.

#### 08 (Flood Risk Mitigation and Surface Water)

No development shall not be commenced until a Surface Water Drainage Scheme and Flood Risk Mitigation Scheme been submitted to and approved in writing by the Local Planning Authority. The approved drainage scheme and any mitigation measures shall be implemented on site prior to first occupation of the development.

Reason: To prevent the increased risk of flooding; to improve and protect water quality; to improve habitat and amenity; and to ensure the future maintenance of the sustainable drainage structures in line with the recommendations of the Flood Risk Assessment by HWA Consulting, dated September 2017 which supports this planning application.

#### 09 (External Materials)

No development shall be commenced until samples of the materials identified below have been submitted to and approved in writing by the local planning authority. Development shall thereafter be carried out in accordance with the approved details unless otherwise agreed in writing by the local planning authority.

Facing materials

Bricks

Roofing tiles

Reason: In order to preserve or enhance the character and appearance of the conservation area.

#### 010 (Architectural Details)

No development shall be commenced in respect of the features identified below, until details of the design, specification, fixing and finish in the form of drawings and sections at a scale of not less than 1:10 have been submitted to and approved in writing by the local planning authority. Development shall thereafter be undertaken in accordance with the approved details unless otherwise agreed in writing by the local planning authority.

External windows including roof windows, doors and their immediate surroundings, including details of glazing and glazing bars.

Treatment of window and door heads and cills

Verges and eaves

Rainwater goods

Reason: In order to preserve or enhance the character and appearance of the conservation area.

#### 011 (External Lighting Scheme)

No development shall be commenced until details of any external lighting have been submitted to and approved in writing by the local planning authority. The details shall include location, design, levels of brightness and beam orientation, together with measures to minimise overspill and light pollution to visual and residential amenity as well considering bats who may forage along the Powell Dyke. The lighting scheme shall thereafter be carried out in accordance with the approved details and the measures to reduce overspill and light pollution retained for the lifetime of the development unless otherwise agreed in writing by the local planning authority.

Reason: In the interests of visual and residential amenity and nature conservation, in particularly bats as recommended by the Protected Species Survey by CBE Consulting dated September 2017 which supports the planning application.

#### 012 (Visibility Splays)

No part of the development hereby permitted shall be brought into use until visibility splays of 2.4m x 43m are provided as shown on drawing number Proposed Site Plan, 251/2006/02 Rev B received 4<sup>th</sup> January 2018. The area within the visibility splays referred to in this condition shall thereafter be kept free of all obstructions, structures or erections exceeding 0.6 metres in height above carriageway level to the satisfaction of the Local Planning Authority.

Reason: In the interest of highway safety.

#### 013 (Provision of Car Parking Spaces)

No development shall be commenced until a plan showing the parking provision for each of the dwellings hereby approved has been submitted to and has been approved in writing by the Local Planning Authority. The approved parking spaces shall be provided on site for each plot prior to first occupation of the respective dwelling and shall thereafter be retained for parking for the lifetime of the development.

Reason: In the interests of clarity and to ensure that sufficient parking provision is made in the interests of highway safety and to avoid on street parking in the vicinity.

#### 014 (Hard and Soft Landscaping Scheme)

No development shall be commenced until full details of both hard and soft landscape works have been submitted to and approved in writing by the local planning authority and these works shall be carried out as approved. These details shall include:

a schedule (including planting plans and written specifications, including cultivation and other operations associated with plant and grass establishment) of trees, shrubs and other plants, noting species, plant sizes, proposed numbers and densities. The scheme shall be designed so as to enhance the nature conservation value of the site, including the use of locally native plant species.

proposed finished ground levels or contours;

means of enclosures;

hard surfacing materials;

Reason: In the interests of visual amenity and biodiversity.

#### 015 (Landscaping Implementation)

The approved soft landscaping shall be completed during the first planting season following the commencement of the development, or such longer period as may be agreed in writing by the local planning authority. Any trees/shrubs which, within a period of five years of being planted die, are removed or become seriously damaged or diseased shall be replaced in the current or next planting season with others of similar size and species unless otherwise agreed in writing by the local planning authority. The approved hard landscaping scheme shall be implemented on site prior to first occupation unless otherwise agreed in writing with the Local Planning Authority.

Reason: To ensure the work is carried out within a reasonable period and thereafter properly maintained, in the interests of visual amenity and biodiversity.

#### 016 (Obscure Glazing for Plot 2 Bathroom)

The bathroom window opening on the side (south) elevation of Plot 2 shall be obscured glazed to level 3 or higher on the Pilkington scale of privacy or equivalent and shall be non-opening up to a minimum height of 1.7m above the internal floor level of the room in which it is installed. This specification shall be complied with before the development is occupied and thereafter be retained for the lifetime of the development unless otherwise agreed in writing by the local planning authority.

Reason: To safeguard against overlooking and loss of privacy in the interests of amenity of occupiers of neighbouring properties

#### 017 (Removal of Permitted Development Rights for Windows to Plots 1 and 2)

Notwithstanding the provisions of the Town and Country Planning (General Permitted Development Order) 1995 (or any order revoking, re-enacting or modifying that Order), no windows including dormer windows (other than those expressly authorised by this permission) shall be constructed on the south (rear) elevation of Plot 1 or the east (rear) elevation of Plot 2.



Reason: To safeguard against the overlooking and loss of privacy in the interests of amenity of occupiers of neighbouring properties.

018 (Removal of Permitted Development Rights as per previous appeal decision)

Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (and any order revoking, re-enacting or modifying that Order), other than development expressly authorised by this permission, there shall be no development under Schedule 2, Part 1 of the Order in respect of:

Class A: The enlargement, improvement or other alteration of a dwellinghouse, including extensions to the property and the insertion or replacement of doors and windows.

Class B: The enlargement of a dwellinghouse consisting of an addition or alteration to its roof.

Class C: Any other alteration to the roof of a dwellinghouse.

Class D: The erection or construction of a porch outside any external door of a dwellinghouse.

Class E: Development within the curtilage of a dwellinghouse.

Class G: The installation, alteration or replacement of a chimney, flue or soil and vent pipe on a dwellinghouse.

unless consent has firstly be granted in the form of a separate planning permission.

Reason: To ensure that the local planning authority retains control over the specified classes of development normally permitted under the Town and Country Planning (General Permitted Development) (England) Order 2015 or any amending legislation) in order to safeguard the amenity of neighbours and to the character and appearance of the Conservation Area is safeguarded.

### **Note to Applicant**

01

This application has been the subject of pre-application discussions and has been approved in accordance with that advice. The District Planning Authority has accordingly worked positively and pro-actively, seeking solutions to problems arising in coming to its decision. This is fully in accordance with Town and Country Planning (Development Management Procedure) Order 2010 (as amended).

02

The applicant is advised that all planning permissions granted on or after the 1st December 2011 may be subject to the Community Infrastructure Levy (CIL). Full details of CIL are available on the Council's website at [www.newark-sherwooddc.gov.uk](http://www.newark-sherwooddc.gov.uk)

The proposed development has been assessed and it is the Council's view that CIL IS PAYABLE on the development hereby approved as is detailed below. Full details about the CIL Charge including, amount and process for payment will be set out in the Regulation 65 Liability Notice which will be sent to you as soon as possible after this decision notice has been issued. If the development hereby approved is for a self-build dwelling, residential extension or residential annex you may be able to apply for relief from CIL. Further details about CIL are available on the Council's website: [www.newark-sherwooddc.gov.uk/cil/](http://www.newark-sherwooddc.gov.uk/cil/) or from the Planning Portal:

[www.planningportal.gov.uk/planning/applications/howtoapply/whattosubmit/cil](http://www.planningportal.gov.uk/planning/applications/howtoapply/whattosubmit/cil)

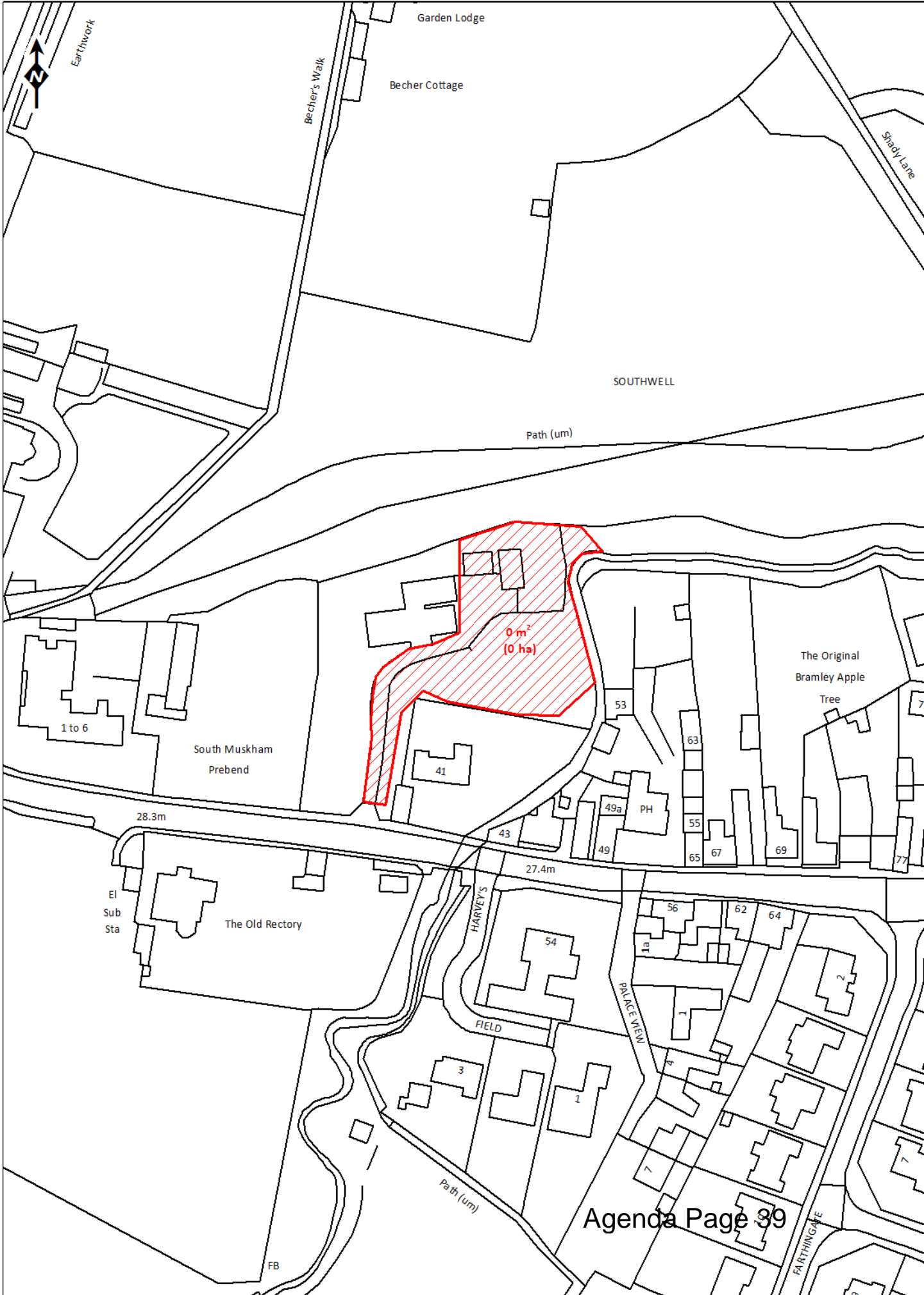
**BACKGROUND PAPERS**

Application case file.

For further information, please contact Clare Walker on ext. 5834.

All submission documents relating to this planning application can be found on the following website [www.newark-sherwooddc.gov.uk](http://www.newark-sherwooddc.gov.uk).

**Kirsty Cole**  
**Deputy Chief Executive**



# Agenda Item 6

PLANNING COMMITTEE – 9 JANUARY 2018

AGENDA ITEM NO. 6

<b>Application No:</b>	<b>17/01787/FUL</b>	
<b>Proposal:</b>	<b>Householder application for single Storey pitched roof extension to the north of Bechers Cottage with flat roof and glazed link.</b>	
<b>Location:</b>	<b>Bechers Cottage, Bechers Walk, Burgage Lane, Southwell, NG25 0ER</b>	
<b>Applicant:</b>	<b>Mr &amp; Mrs Illesley</b>	
<b>Registered:</b>	<b>6 October 2017</b>	<b>Target Date: 1 December 2017</b>
		<b>Extension: 12.01.2018</b>

**This application is presented to the Planning Committee for determination as it has been referred by Cllr P Rainbow on behalf of Southwell Town Council.**

## The Site

The site is located within the defined built up urban area of Southwell and within Southwell Conservation Area. The application relates to a dwelling which is a single storey converted building in the grounds of the large Grade II listed Hill House. The dwelling is considered to be curtilage listed. The proposal is for a single storey garden room extension.

Becher's Cottage is located off Becker's Walk in Southwell and Hill House is accessed from Burgage Lane to the east of the town centre. The east and west boundaries are formed by public footpaths, Shady Lane and Becher's Walk respectively. The character in this area of Southwell is typically private residential and the site lies within the Southwell conservation area.

## Relevant Planning History

**10/00281/FUL** - Erection of single storey extension, internal and external alterations to outbuilding to form dwelling – Refused April 2010 (Appeal Dismissed)

**10/00282/LBC** – Erection of single storey extension, boundary wall and alterations to fenestration and internal layout – Refused April 2010 (Appeal Dismissed)

**10/01048/FUL** – Conversion and extension of redundant implement store and workshop outbuildings to form single dwelling and erection of boundary wall – Permitted September 2010

**10/01049/LBC** - Internal and external alterations, erection of single storey extension and boundary wall – Permitted September 2010

**17/02137/LBC** - Single Storey pitched roof extension to the north of Bechers Cottage with flat roof and glazed link – pending consideration.

### The Proposal

The proposal seeks full planning permission for the erection of an extension to the north of the property along the unmarked boundary.

The extension will enlarge the northern half of the property projecting towards the east off the existing bedroom. The gabled projection will be set in approx. 3.1 m from the northern side elevation and project out 7.65 m in length, 3.59 m wide.

The garden room will have a maximum eaves height of 2.4m and ridge height of 3.8m (a minimum eaves height of 1.87 and ridge height of 3.2 along the northern boundary taking account of the changes in land levels)

The bathroom is proposed to have a maximum eaves height of an eaves height of circa 2m and ridge height of circa 3.7m (a minimum eaves height of 1.45m and ridge of 2.7m along the northern boundary taking account of the changes in land levels). The roof is pitched at 32 degrees to match the outbuilding.

2 no. conservation style rooflights are proposed to be inserted in the east facing roof slope of the existing bedroom along with a triple paned aluminium full height window. A small window is also proposed to serve the bathroom on the east facing side elevation of the extension.

Aluminium folding doors are proposed on the south elevation along with 2 conservation style rooflights in the southern facing roof slope. Two timber doors are proposed to serve the store on the south elevation.

There are no windows to the north elevation or roof lights to the North slope.

The extension is to be constructed in matching clay facing brick and bond and the pitched roofs to be covered with Welsh slate incorporating conservation style rooflights with the flat roof to the link structure in stainless steel. The windows to the Atrium, including the inline roof glazing and the sliding folding doors to the Garden Room are proposed to be PPC (cream to match existing) aluminium framed and double glazed.

The Garden Room will be level with the external ground level providing views to the south. The difference in levels between the existing Bedroom and Garden Room will be approximately 550mm.

Externally a new paved area is to be provided to the south of the extension with level access to the new door openings. To the south side a small dwarf wall extends from the Garden Room to offer some privacy from the view of the garden which is freely accessible.

## Public Advertisement Procedure

13 neighbours have been notified, a site notice has been displayed near to the site and an advert has been placed in the local press.

Earliest decision date 13<sup>th</sup> November 2017.

## **Planning Policy Framework**

### **The Development Plan**

#### **Newark and Sherwood Core Strategy DPD (adopted March 2011)**

Core Policy 9: Sustainable Design

Core Policy 14: Historic Environment

#### **Allocations & Development Management DPD**

Policy So/PV – Southwell Protected Views

Policy DM5 – Design

Policy DM9 – Protecting and Enhancing the Historic Environment

Policy DM12 – Presumption in Favour of Sustainable Development

#### **Southwell Neighbourhood Plan**

SoAP1 – Role and Setting of Southwell

DH1 – Sense of Place

## **Other Material Planning Considerations**

- National Planning Policy Framework 2012
- Planning Practice Guidance 2014
- Sections 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990

## **Consultations**

**Southwell Town Council** – “Southwell Town Council considered application 17/01787/FUL Bechers Cottage Bechers Walk Southwell and agreed unanimously to object to the application and asked that Cllr Bruce Laughton call in this application for the following reasons:

- The development will negatively impact on the spaces and relationship between listed buildings, eg: Hill House and the other properties within the area. NP Policy DH3 Historic Environment pg 48
- It will have an overbearing and adverse effect on the area within the conservation area.

- Previous planning history- similar applications have been through an appeal and objections upheld.
- Massing will have detrimental effect on this sensitive area.”

**Southwell Civic Society** – “This property lies in the grounds of a Grade II listed building and as such any development has to respect that building. This has been clearly stated in the decision to refuse application 10/00281.

Policy C10 of the Newark and Sherwood Local Plan states that planning permission will not be granted for development that adversely affects the architectural or historical interest of listed buildings, Policy C11 states that permission will not be granted for development which adversely affects their setting and Policy C1 states that permission will not be granted for development which adversely affects the character or appearance of conservation areas.

Hill House is a Grade II Listed Building, the outbuilding subject of this application is located within its curtilage and is therefore considered as part of the listed building

The proposed development, by virtue of its size, scale and orientation, is not subordinate to or respectful of the grain of the existing outbuilding. The prominence of its south elevation detracts from its special architectural interest and it is therefore contrary to Policy C10 of the Local Plan

The proposal will severely impact on the residents of Garden Lodge. It will block out their southerly aspect denying them light and will also be overbearing.”

**NCC Lead Local Flood Authority** – “No objections subject to the following:

1. The development should not increase flood risk to existing properties or put the development at risk of flooding.
2. Any discharge of surface water from the site should look at infiltration – watercourse – sewer as the priority order for discharge location.
3. SUDS should be considered where feasible and consideration given to ownership and maintenance of any SUDS proposals for the lifetime of the development.
4. Any development that proposes to alter an ordinary watercourse in a manner that will have a detrimental effect on the flow of water (eg culverting / pipe crossing) must be discussed with the Flood Risk Management Team at Nottinghamshire County Council.”

**Environment Agency** - Standing Advice applies

**Trent Valley Internal Drainage Board** – The site is outside of the Trent Valley Internal Drainage Board district but within the Boards catchment.

There are no Board maintained watercourses in close proximity to the site.

Surface water run off rates must not be increased as a result of the development

The design, operation and future maintenance of site drainage systems must be agreed with the LLFA and the LPA.

**NSDC Conservation Officer** – “Many thanks for consulting Conservation on the above proposal.

### Introduction

The proposal seeks approval for an extension to Bechers Cottage, a former implement/work store associated with Hill House, now converted to residential use (approval ref 10/01049/LBC).

We provided pre-application advice on this proposal (ref PREAPP/00269/16). The proposal broadly complies with advice given during that process.

### Heritage asset(s) affected

Bechers Cottage is situated within the setting and historic curtilage of Hill House, a fine Grade II listed building (designated Aug 1961). The associated boundary walls and gate piers to Hill House are Grade II listed (designated Feb 1973). The Council has previously considered the historic outbuildings in this part of the site to be curtilage listed in association with Hill House.

Burgage Court to the west is also Grade II listed (designated August 1952).

The building is within Southwell Conservation Area (CA). The CA was designated in 1970, and was last reviewed and amended in 2005. Conservation considers Hill House to be a positive building within the CA that has group value with the associated listed gates and boundary walls.

### Legal and policy framework

Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the ‘Act’) requires the Local Planning Authority (LPA) to pay special regard to the desirability of preserving listed buildings, their setting and any architectural features that they possess. Section 72 of the Act requires the LPA to pay special attention to the desirability of preserving or enhancing the special character and appearance of the CA. In this context, the objective of preservation is to cause no harm, and is a matter of paramount concern in the planning process. The courts have said that these statutory requirements operate as ‘the first consideration for a decision maker’. Planning decisions require balanced judgement, but in that exercise, significant weight must be given to the objective of heritage asset conservation.

Policies CP14 and DM9 of the Council's LDF DPDs, amongst other things, seek to protect the historic environment and ensure that heritage assets are managed in a way that best sustains their significance. Key issues to consider in proposals for additions to heritage assets, including new development affecting the setting of designated heritage assets are proportion, height, massing, bulk, use of materials, use, relationship with adjacent assets, alignment and treatment of setting. The importance of considering the impact of new development on the significance of designated heritage assets, furthermore, is expressed in section 12 of the National Planning Policy Framework (NPPF). Paragraph 132 of the NPPF, for example, advises that the significance of designated heritage assets can be harmed or lost through alterations or development within their setting.



Such harm or loss to significance requires clear and convincing justification. The NPPF also makes it clear that protecting and enhancing the historic environment is sustainable development (paragraph 7).

The setting of heritage assets is defined in the Glossary of the NPPF which advises that setting is the surroundings in which an asset is experienced. Paragraph 13 of the Conservation section within the Planning Practice Guidance (PPG) advises that a thorough assessment of the impact on setting needs to take into account, and be proportionate to, the significance of the heritage asset under consideration and the degree to which proposed changes enhance or detract from that significance and the ability to appreciate it. Paragraph 13 also reminds us that the contribution made by setting does not necessarily rely on direct intervisibility or public access.

Additional advice on considering development within the historic environment is contained within the Historic England Good Practice Advice Notes (notably GPA2 and GPA3). In addition, 'Historic England Advice Note 2: making changes to heritage assets' advises that it would not normally be good practice for new work to dominate the original asset or its setting in either scale, material or as a result of its siting. Assessment of an asset's significance and its relationship to its setting will usually suggest the forms of development that might be appropriate. The junction between new development and the historic environment needs particular attention, both for its impact on the significance of the existing asset and the impact on the contribution of its setting.

Southwell Conservation Area Appraisal (2005) advises that Hill House is an important polite Georgian property within the Burgage area.

#### Significance of heritage asset(s)

Hill House is a substantial property of three storeys dating from 1800 with mid-19th, late 19th and 20th century phases. The building is constructed in red brick with stone dressings and slate roofs, most of which are hipped. The windows are typically sashes, and the overall composition is cohesive despite modern sub-division into apartments. The building also has historic interest due to its original occupant being John Thomas Becher, an important proponent of Poor Law reform and an association with the House of Correction on the Burgage.

The Burgage together with the Prebendage has some of the most elegant Georgian buildings in Southwell. Burgage House, The Burgage, Elmfield House, Burgage Manor, Burgage Lodge and Hill House all occupy superb sites around Burgage Green or at the top of Burgage Lane.

Historic maps reveal an area of outbuildings and glass houses in this part of the site. The main original shed is that situated along the boundary, and has been extended/alterd as part of an approved scheme in 2010 (ref 10/01049/LBC). Although now converted, the character of this part of the property, comprising remnants of gardener bothy/implement shed can still be understood.

### Assessment of proposal

Conservation has no objection to the proposed development.

The proposed extension is modest. Whilst the proposal will project from the older linear arrangement of sheds, the addition is not considered to be obtrusive or harmful to the setting of Hill House in this case.

The structure will be intervisible with Hill House from much of the surrounding garden area, but given the existing domestic arrangements in place between Bechers Cottage and the adjacent Garden Lodge, the extension will not be unduly prominent. Moreover, the historic context of garden related structures in this area is such that I do not find the proposal to be disharmonious. The design has been well-considered and has a suitable ancillary character. The detailing is also appropriate, and I note the use of traditional elements such as Flemish brick bond, lime mortar and natural Welsh slate.

The proposal will not be materially visible from the footpath, and will have little impact when seen in longer views from the south.

### Other material considerations

We note that an appeal was dismissed in 2010 for an extension to Bechers Cottage as part of a redevelopment scheme (ref 10/00282/FUL). This proposal was materially different from that before us now insofar as the extension was located at the southern end of the property. In that context, Conservation fully agrees with the Inspectorate decision, noting that the extension would have blocked views of the house on approach from the south along the footpath and included partial demolition of the attractive historic boundary wall. The current proposal is set further along and would not impinge on views of the house from the footpath nor result in alteration of the boundary wall.

### Recommendation/summary of opinion

The proposed development causes no harm to the special interest of Hill House, a Grade II listed building. The proposal is considered to cause no harm to the setting of any other listed building, and has no adverse impact on the character and appearance of the Southwell CA. The proposal therefore accords with the objective of preservation required under section 66 and 72 of the Act, and complies with heritage advice contained within the Council's LDF DPDs and section 12 of the NPPF.

No concurrent listed building consent (LBC) has been submitted. Given that the original building is determined to be curtilage listed within the meaning of section 1(5) of the Act, the applicant is advised to submit an LBC. If the current planning application was approved in absence of LBC, a suitable informative note should be used to advise that LBC is required.

Notwithstanding the above comments, if approved, the following issues should be conditioned:

All facing materials (samples of bricks, slate and steel)

Joinery details (suitably scaled window/door schedule)

All external accretions and RWGs

Further details of verge/eaves, rooflights, roof glazing and garden store"

**9 Neighbour comments have been received in objection to the proposal** – the comments are summarised as followed:

- Impact upon the character and appearance of Hill House (Grade II listed) and the conservation area
- Impact upon neighbouring views and neighbouring amenity through overshadowing and overbearing
- Inappropriate materials within the conservation area and impact to the boundary wall
- Impact upon the communal garden area
- Reference to the appeal decision and similarities with the applications and that there has been no change in policies
- Proposal is against the view of other occupiers on the site – approval would be undemocratic
- Loss of light and loss of view from the footpath
- Inappropriate and out of keeping fenestration details
- Design of the extension will be out of keeping with the hipped style of the surrounding area
- The proposal would set a precedent

#### Comments of the Business Manager

##### *Principle of Development*

Householder developments are accepted in principle subject to an assessment of numerous criteria outlined in Policy DM6. These criteria include the provision that the proposal should respect the character of the surrounding area. The overall shape, size and position of an extension must not dominate the existing house or the character of the surrounding area. Policy DM5 accepts development providing that it does not unacceptably reduce amenity in terms of overbearing impacts, loss of light and privacy.

Given the site's location within the Conservation Area and within the curtilage of a Grade II listed Building, very careful consideration must be given to the impact on these heritage assets.

These principles will be discussed further below.

##### *Impact upon Heritage Assets and the Character of Area*

The NPPF states that good design is a key aspect of sustainable development and new development should be visually attractive. Core Policy 9 states that new development should

achieve a high standard of sustainable design that is of an appropriate form and scale to its context complementing the existing built and landscape environments. Policy DM5 of the DPD states that local distinctiveness should be reflected in the scale, form, mass, layout, design and materials in new development.

Given that the site is located within the Southwell Conservation Area, regard must also be given to the distinctive character of the area and proposals should seek to preserve and enhance the conservation area in accordance with Policy DM9 of the DPD and Core Policy 14 of the Core Strategy. These policies also seek to protect the historic environment and ensure that heritage assets are managed in a way that best sustains their significance. The importance of considering the impact of new development on the significance of designated heritage assets, furthermore, is expressed in section 12 of the National Planning Policy Framework (NPPF).

Paragraph 137 of the National Planning Policy Guidance states that, 'Local planning authorities should look for opportunities for new development within Conservation Areas...to enhance or better reveal their significance.'

Section 72 of the Planning (Listed Building and Conservation Areas Act) 1990 states, in relation to the general duty as respects conservation areas in exercise of planning functions that, 'special attention shall be paid to the desirability of preserving or enhancing the character and appearance of that area'.

The property is also located within the grounds of a Grade II listed building. Paragraph 132 of the NPPF, for example, advises that the significance of designated heritage assets can be harmed or lost through alterations or development within their setting. Such harm or loss to significance requires clear and convincing justification. The NPPF also makes it clear that protecting and enhancing the historic environment is sustainable development (paragraph 7).

Comments received from neighbouring occupiers and the Town Council which object to the proposal in terms of impact on the neighbouring Listed Building and the Conservation Area are acknowledged and have been duly taken into account.

The Conservation Officer has reviewed this application and raises no objection, concluding that the proposed development would cause no harm to listed buildings, their setting or the wider Conservation Area. Their full comments can be read in the consultation section above.

I note the comments of the Conservation Section and I concur with the expressed opinion that the proposed development would not result in any detrimental impact to the surrounding listed assets or the character and appearance of the conservation area.

Subject to the conditions outlined in the Conservation Officers comments I am satisfied that given the extension has been carefully designed so as to mitigate any harm to the listed building and will not be materially visible from the footpath, the proposal will not affect the character and appearance of the Conservation area.

I note that comments in objection to the proposal have been received detailing that the proposal, by virtue of its size, scale and orientation, is not subordinate to or respectful of the grain of the existing building. Whilst I acknowledge these comments it is not considered that the proposal is out of scale with the host dwelling. The proposed extension seeks to increase the footprint of the building by approximately 26 sq. m net additional floor space; the design has been considered so as to reflect a progressive historical development of outbuildings; in achieving this the extension is proposed to have different widths and steps down with the slope of the land. This design reflects the vernacular phases of development as well as reduces the visual impact of the additional structures, including the addition of a 'cold frame' type structure to provide garden storage which is a traditional feature in this context.

The comments received with regards to impact on views on the heritage assets are noted. Given the position of the extension to the northern end of the host building close to existing built form and that it will not significantly extend any built form further east than currently exists officers are of the view that the proposal would not unduly impact on views to or from the Listed Building.

In addition, the roof pitches have been designed so that they do not exceed the ridge height of the host dwelling and the extension is pulled in from the northernmost side elevation of the dwelling so as to assimilate it within the existing built form of the property. Whilst I acknowledge that the extension will project approx. 7.56 m in length to the east I am satisfied that given the proportions of the host building, the extension by virtue of its design and scale will not be an incongruous addition to the building but is subordinate and respects the character of the host dwelling.

Furthermore I am satisfied that given the domesticated appearance of the immediately surrounding area already, with fencing and garden wall detailing, that the addition of this extension will not materially alter the character and appearance of the surrounding area, or the relationship that Hill House has with the site as a whole.

The positive conclusion drawn by the Conservation Officer on the other elements of the proposed development are noted and I am satisfied that these will also aid preservation of the special interest of the application site, as well as its setting and the setting of surrounding listed buildings. However conditions will be imposed that require precise details of all facing materials, joinery details, external accretions and RWG and further details of verge/eaves, rooflights, roof glazing and garden store in this instance in order to safeguard the special interest of the host dwelling and relationship with the surrounding listed buildings.

Taking the above into account I am satisfied that the proposal by virtue of its siting and scale will not unduly impact on the Listed Building, the Conservation Area setting of the site and the surrounding area.

The proposal therefore accords with the objective of preservation set out under sections 66 and 72, part II of the 1990 Listed Building and Conservation Areas Act, as well as complying with heritage policies and advice contained within the Council's LDF DPDs (DM5, DM9 and CP14) and

section 12 of the NPPF and its accompanying PPG.

### *Impact upon Amenity*

The NPPF seeks to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings. Policy DM6 of the DPD states that development proposals should ensure no unacceptable reduction in amenity upon neighbouring development.

It is acknowledged that the proposed extension follows the boundary line close to the neighbouring dwelling to the north (North Lodge). The ground levels of the application site are shown to be reduced so that the floor levels step down and respond to the lower ground levels to the south of the site. The north elevation of the extension along the northern boundary of the site is proposed to be circa 1.87 m to the eaves height and circa 3.2m to the ridge reducing to circa 1.45m to eaves and circa 2.7m to ridge. I note that the roof has also been designed so that it is pitched at approx. 32° to match the building and to mitigate against any amenity impacts to the neighbouring dwelling. In addition to this I note that there are no windows proposed in the north elevation which could impact the neighbouring dwelling, therefore no privacy issues will occur through overlooking.

North Lodge itself has a single storey hipped roof projection which comprises a lounge which is sited some 5m from the proposed extension with patio area immediately adjacent to this boundary with the application site served by patio doors to the south elevation. This room is also served by windows to its eastern elevation and a rooflight to the southern roof slope. The boundary treatment here currently consists of 2m high trellis fencing with some planting.

Given the separation distance and the orientation of this neighbouring dwelling to the proposed extension it is accepted that there would be some loss of outlook and light and an increased sense of enclosure from the south facing windows and the patio area serving the lounge at North Lodge. I am mindful that the patio area is the private amenity space serving the occupiers of North Lodge, albeit there is the communal garden to the east. However, I am also mindful that this room is also served by windows to the east elevation and a roof light to the southern roof slope.

Taking account of above together with the height of the proposed extension which reduces as it extends along this boundary together with the design and pitch of its roof which pulls away from North Lodge, although it is considered that the proposal would result in some impact on the amenity of this neighbouring property this would, on balance, be on the cusp of acceptability and would not in officer view be sufficient to justify refusal on these grounds. However this is a finely balanced officer opinion.

Given separation distances and the relationship of the proposal with other neighbouring properties I am also satisfied that the proposal would not be unduly dominating or would unduly impact on light or outlook. Concerns raised with impact on longer range views of the surrounding area would not be a material planning consideration and therefore would carry little weight in the determination of the application.

With regards to fenestration, I note that 2 no. conservation style rooflights are proposed to be inserted in the east facing roof slope of the existing bedroom along with a triple paned aluminium window full height window. A small window is also proposed to serve the bathroom on the east facing side elevation of the extension. Aluminium folding doors proposed on the south elevation along with 2 conservation style rooflights in the southern facing roof slope. Two timber doors are proposed to serve the store on the south elevation. There are no windows to the north elevation or roof lights to the northern roof slope. Whilst I appreciate that there are additional windows proposed, I note that these are facing into the properties own private courtyard area or out into the communal garden area. Given that these windows are not to be in the direction of any neighbouring dwelling or its private amenity area I am satisfied that there will be no exacerbation of any privacy issue through overlooking.

I also consider that the proposed development would not have a significant impact on neighbouring occupiers in terms of garden activity as the communal use of this general garden area already exists and is part of its character.

Overall and on balance, taking the above into account it is not considered that the proposal would sufficiently result in such impact upon the residential amenity of any neighbouring residents to justify refusal on these grounds and as such the proposed development is considered to be in accordance with Policy DM6.

#### *Impact on Flooding*

Whilst it is acknowledged that the site lies within Flood Zone 1 as defined by the Environment Agency data, Southwell has recently been subject to flooding and as such a householder flood risk form has been submitted as part of the proposal. The site is in an elevated position on Burgage Lane. The new floor levels are proposed to be set lower than the existing, due to the changes in ground level however it is noted that the floor levels are proposed to be 300mm above the modelled flood levels.

I do not consider the proposal, due to scale and footprint, would cause any detrimental impacts to neighbours or the surrounding area from flooding or surface water run-off from the development. There are ample areas of porous surfacing within the remainder of the site to allow water to permeate and I note that no objections have been received from the LLFA. On this basis it is not necessary, proportionate or reasonable to require anything else of the applicant including the suggested comments of the LLFRA.

#### *Other Considerations*

I note that comments have been made in respect of the previous appeal decisions on the site. An appeal was dismissed in 2010 for an extension to Bechers Cottage as part of a redevelopment scheme (ref 10/00282/FUL) where the inspector commented on the design of the projecting gable extension as being a negative part of the overall scheme. This proposal was materially different from that before us now insofar as the extension was located at the southern end of the property.

In that context, the Conservation Officer fully agrees with the Inspectorate decision, noting that the extension would have blocked views of the house on approach from the south along the footpath and included partial demolition of the attractive historic boundary wall.

The current proposal is set further along and would not impinge on views of the house from the footpath nor result in alteration of the boundary wall and as such is considered to be materially different to the appeal decision and is appraised on its own merit. Whilst considered to be materially different to that in 2010 the current still proposes to project eastwards with the gable end terminating facing the formal lawn. Whilst I appreciate that the inspector made reference to the extension reducing the simple nature of the existing building, making it more prominent in the arrangement of buildings on the site I am satisfied that given the proposal now ties the bulk of the extension towards the north of the host dwelling and the existing buildings on the site, and given its modest size, it would not appear incongruous when read with the wider site. Moreover, when seen in views towards the house from the public footpath to the south I am of the view that the projecting gable, positioned towards the north, close to the neighbouring dwelling would not appear out of keeping with the alignment of buildings. Additionally, I am also satisfied that in this instance, the gabled design of the roof would not appear incongruous with the predominately hipped rooves on the site.

Objections have also noted that the proposed extension would be against the view of the other occupiers of the site. As with any planning application, officers have given due and careful consideration to all representations made and material planning considerations have been appraised within the relevant sections of this report.

#### *Conclusion and Planning Balance*

Given the above, it is considered that the proposed development will preserve the special interest of the listed building and cause no harm to any other designated heritage asset nor the character of the area. Although it is accepted that the development would result in some impact on the residential amenity of North Lodge this is not considered on balance to be sufficient to justify refusal on these grounds. No other amenity issues have been identified.

The proposal is therefore considered to accord with the objective of preservation required under sections 16, 66 and 72 of the Act and Policies CP14 and DM9, So/PV, DM9 and DM12 together with the aims of the NPPF.

#### **RECOMMENDATION**

**That full planning permission is approved subject to the following conditions**



## Conditions

01

The development hereby permitted shall not begin later than three years from the date of this permission.

Reason: To comply with the requirements of Section 51 of the Planning and Compulsory Purchase Act 2004.

02

The development hereby permitted shall not be carried out except in complete accordance with the approved plans:

9213-01 Existing Plans and Elevations

9213-20 Proposed Ground Floor Plan

9213-21 Proposed Elevations

unless otherwise agreed in writing by the local planning authority through a non-material amendment.

Reason: So as to define this permission.

03

No works shall be commenced until samples of the all facing materials (including bricks, slate and steel) have been submitted to and approved in writing by the local planning authority. The works shall thereafter be carried out in accordance with the approved details unless otherwise agreed in writing by the local planning authority.

Reason: In the interests of preserving the setting of listed buildings and in order to preserve the character and appearance of the conservation area.

04

No works shall be commenced in respect of the features identified below, until details of the design, specification, fixing and finish in the form of drawings and sections at a scale of not less than 1:10 have been submitted to and approved in writing by the local planning authority. The works shall thereafter be undertaken in accordance with the approved details unless otherwise agreed in writing by the local planning authority.

- External windows (including roof windows), doors and their immediate surroundings, including details of glazing and glazing bars.
- Verges and eaves
- All external accretions including rainwater goods
- Garden Store

Reason: In the interests of preserving the setting of listed buildings and in order to preserve the character and appearance of the conservation area.

05

Notwithstanding the provisions of the Town and Country Planning (General Permitted Development Order) 1995 (or any order revoking, re-enacting or modifying that Order), no windows shall be inserted in the rear elevation of the development hereby permitted facing North Lodge.

Reason: To safeguard against the overlooking and loss of privacy in the interests of amenity of occupiers of neighbouring properties.

### **Notes to Applicant**

01

The Lead Local Flood Risk Authority wish to make the applicant aware of their comments as follows:

- The development should not increase flood risk to existing properties or put the development at risk of flooding.
- Any discharge of surface water from the site should look at infiltration – watercourse – sewer as the priority order for discharge location.
- SUDS should be considered where feasible and consideration given to ownership and maintenance of any SUDS proposals for the lifetime of the development.
- Any development that proposes to alter an ordinary watercourse in a manner that will have a detrimental effect on the flow of water (e.g. culverting / pipe crossing) must be discussed with the Flood Risk Management Team at Nottinghamshire County Council.

02

You are advised of the following comments of Trent Valley Drainage Board

The site is outside of the Trent Valley Internal Drainage Board district but within the Boards catchment. There are no Board maintained watercourses in close proximity to the site.

Surface water run off rates must not be increased as a result of the development

The design, operation and future maintenance of site drainage systems must be agreed with the LLFA and the LPA.

03

The applicant is advised that all planning permissions granted on or after the 1<sup>st</sup> December 2011 may be subject to the Community Infrastructure Levy (CIL). Full details of CIL are available on the Council's website at [www.newark-sherwooddc.gov.uk/cil/](http://www.newark-sherwooddc.gov.uk/cil/)

The proposed development has been assessed and it is the Council's view that CIL is not payable on the development given that there is no net additional increase of floorspace as a result of the development.

04

The application as submitted is acceptable. In granting permission without unnecessary delay the District Planning Authority is implicitly working positively and proactively with the applicant. This is fully in accordance with Town and Country Planning (Development Management Procedure) Order 2010 (as amended).

05

For the avoidance of doubt this consent should be read in conjunction with Listed Building Consent ref. 17/02137/LBC.

#### BACKGROUND PAPERS

Application case file.

For further information, please contact Honor Whitfield on ext. 5827.

All submission documents relating to this planning application can be found on the following website [www.newark-sherwooddc.gov.uk](http://www.newark-sherwooddc.gov.uk).

**Kirsty Cole**  
**Deputy Chief Executive**

Committee Plan - 17/01787/FUL



<b>Application No:</b>	<b>17/02137/LBC</b>	
<b>Proposal:</b>	<b>Single Storey pitched roof extension to the north of Bechers Cottage with flat roof and glazed link.</b>	
<b>Location:</b>	<b>Bechers Cottage, Bechers Walk, Burgage Lane, Southwell, NG25 0ER</b>	
<b>Applicant:</b>	<b>Mr &amp; Mrs Illesley</b>	
<b>Registered:</b>	<b>23<sup>rd</sup> November 2017</b>	<b>Target Date: 18<sup>th</sup> January 2017</b>

**This application is presented to the Planning Committee for determination as it has been referred by Cllr P Rainbow on behalf of Southwell Town Council.**

## The Site

The site is located within the defined built up urban area of Southwell and within Southwell Conservation Area. The application relates to a dwelling which is a single storey converted building in the grounds of the large Grade II listed Hill House. The dwelling is considered to be curtilage listed. The proposal is for a single storey garden room extension.

Becher's Cottage is located off Becker's Walk in Southwell and Hill House is accessed from Burgage Lane to the east of the town centre. The east and west boundaries are formed by public footpaths, Shady Lane and Becher's Walk respectively. The character in this area of Southwell is typically private residential and the site lies within the Southwell conservation area.

## Relevant Planning History

**10/00281/FUL** - Erection of single storey extension, internal and external alterations to outbuilding to form dwelling – Refused April 2010 (Appeal Dismissed)

**10/00282/LBC** – Erection of single storey extension, boundary wall and alterations to fenestration and internal layout – Refused April 2010 (Appeal Dismissed)

**10/01048/FUL** – Conversion and extension of redundant implement store and workshop outbuildings to form single dwelling and erection of boundary wall – Permitted September 2010

**10/01049/LBC** - Internal and external alterations, erection of single storey extension and boundary wall – Permitted September 2010

**17/01787/FUL** - Single Storey pitched roof extension to the north of Bechers Cottage with flat roof and glazed link – pending consideration.

## The Proposal

The proposal seeks full planning permission for the erection of an extension to the north of the property along the unmarked boundary.

The extension will enlarge the northern half of the property projecting towards the east off the existing bedroom. The gabled projection will be set in approx. 3.1 m from the northern side elevation and project out 7.65 m in length, 3.59 m wide.

The garden room will have a maximum eaves height of 2.4m and ridge height of 3.8m (a minimum eaves height of 1.87 and ridge height of 3.2 along the northern boundary taking account of the changes in land levels)

The bathroom is proposed to have a maximum eaves height of an eaves height of circa 2m and ridge height of circa 3.7m (a minimum eaves height of 1.45m and ridge of 2.7m along the northern boundary taking account of the changes in land levels). The roof is pitched at 32 degrees to match the outbuilding.

2 no. conservation style rooflights are proposed to be inserted in the east facing roof slope of the existing bedroom along with a triple paned aluminium window full height window. A small window is also proposed to serve the bathroom on the east facing side elevation of the extension.

Aluminium folding doors are proposed on the south elevation along with 2 conservation style rooflights in the southern facing roof slope. Two timber doors are proposed to serve the store on the south elevation.

There are no windows to the north elevation or roof lights to the north slope.

There are no windows to the north elevation or roof lights to the north slope

The extension is to be constructed in matching clay facing brick and bond and the pitched roofs to be covered with Welsh slate incorporating conservation style rooflights with the flat roof to the link structure in stainless steel. The windows to the Atrium, including the inline roof glazing and the sliding folding doors to the Garden Room are proposed to be PPC (cream to match existing) aluminium framed and double glazed.

The Garden Room will be level with the external ground level providing views to the south. The difference in levels between the existing Bedroom and Garden Room will be approximately 550mm.

Externally a new paved area is to be provided to the south of the extension with level access to the new door openings. To the south side a small dwarf wall extends from the Garden Room to offer some privacy from the view of the garden which is freely accessible.

A full planning application has been submitted to accompany this proposal – **17/01787/FUL**

## Departure/Public Advertisement Procedure

8 neighbours have been notified, a site notice has been displayed near to the site and an advert has been placed in the local press.

Earliest decision date 16<sup>th</sup> January 2017

## Planning Policy Framework

The Courts have accepted that Section 54A of the Town and Country Planning Act 1990 does not apply to decisions on applications for Listed Building Consents, since in those cases there is no statutory requirement to have regard to the provisions of the development plan. However, Local Planning Authorities are required to be mindful of their duty under the legal framework in determining such matters, i.e. Section 16(2) of the Planning (Listed Buildings and Conservation Areas) Act 1990 and take into account the following other material considerations:

- *National Planning Policy Framework (NPPF) Adopted March 2012*
- *Planning Policy Guidance (PPG) published April 2014*
- *Historic England's Good Practice Advice Note 2 – Managing Significance in Decision Taking in the Historic Environment*
- *Historic England Advice Note 2 – Making Changes to Heritage Assets*

## Consultations

**Southwell Town Council** – “Southwell Town Council considered application 17/01787/FUL Bechers Cottage Bechers Walk Southwell and agreed unanimously to object to the application and asked that Cllr Bruce Laughton call in this application for the following reasons:

- The development will negatively impact on the spaces and relationship between listed buildings, eg: Hill House and the other properties within the area. NP Policy DH3 Historic Environment pg 48
- It will have an overbearing and adverse effect on the area within the conservation area.
- Previous planning history- similar applications have been through an appeal and objections upheld.
- Massing will have detrimental effect on this sensitive area.”

**Southwell Civic Society** – “This property lies in the grounds of a Grade II listed building and as such any development has to respect that building. This has been clearly stated in the decision to refuse application 10/00281.

Policy C10 of the Newark and Sherwood Local Plan states that planning permission will not be granted for development that adversely affects the architectural or historical interest of listed buildings, Policy C11 states that permission will not be granted for development which adversely

affects their setting and Policy C1 states that permission will not be granted for development which adversely affects the character or appearance of conservation areas.

Hill House is a Grade II Listed Building, the outbuilding subject of this application is located within its curtilage and is therefore considered as part of the listed building

The proposed development, by virtue of its size, scale and orientation, is not subordinate to or respectful of the grain of the existing outbuilding. The prominence of its south elevation detracts from its special architectural interest and it is therefore contrary to Policy C10 of the Local Plan

The proposal will severely impact on the residents of Garden Lodge. It will block out their southerly aspect denying them light and will also be overbearing.”

**NCC Flood Risk – “No objections subject to the following:**

1. The development should not increase flood risk to existing properties or put the development at risk of flooding.
2. Any discharge of surface water from the site should look at infiltration – watercourse – sewer as the priority order for discharge location.
3. SUDS should be considered where feasible and consideration given to ownership and maintenance of any SUDS proposals for the lifetime of the development.
4. Any development that proposes to alter an ordinary watercourse in a manner that will have a detrimental effect on the flow of water (eg culverting / pipe crossing) must be discussed with the Flood Risk Management Team at Nottinghamshire County Council.”

**Environment Agency** - Standing Advice applies

**Trent Valley Internal Drainage Board** – The site is outside of the Trent Valley Internal Drainage Board district but within the Boards catchment.

There are no Board maintained watercourses in close proximity to the site.

Surface water run off rates must not be increased as a result of the development

The design, operation and future maintenance of site drainage systems must be agreed with the LLFA and the LPA.

**NSDC Conservation Officer** – “Many thanks for consulting Conservation on the above proposal.

Introduction

The proposal seeks approval for an extension to Bechers Cottage, a former implement/work store associated with Hill House, now converted to residential use (approval ref 10/01049/LBC).

We provided pre-application advice on this proposal (ref PREAPP/00269/16). The proposal broadly complies with advice given during that process.



### Heritage asset(s) affected

Bechers Cottage is situated within the setting and historic curtilage of Hill House, a fine Grade II listed building (designated Aug 1961). The associated boundary walls and gate piers to Hill House are Grade II listed (designated Feb 1973). The Council has previously considered the historic outbuildings in this part of the site to be curtilage listed in association with Hill House.

Burgage Court to the west is also Grade II listed (designated August 1952).

The building is within Southwell Conservation Area (CA). The CA was designated in 1970, and was last reviewed and amended in 2005. Conservation considers Hill House to be a positive building within the CA that has group value with the associated listed gates and boundary walls.

### Legal and policy framework

Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the 'Act') requires the Local Planning Authority (LPA) to pay special regard to the desirability of preserving listed buildings, their setting and any architectural features that they possess. Section 72 of the Act requires the LPA to pay special attention to the desirability of preserving or enhancing the special character and appearance of the CA. In this context, the objective of preservation is to cause no harm, and is a matter of paramount concern in the planning process. The courts have said that these statutory requirements operate as 'the first consideration for a decision maker'. Planning decisions require balanced judgement, but in that exercise, significant weight must be given to the objective of heritage asset conservation.

Policies CP14 and DM9 of the Council's LDF DPDs, amongst other things, seek to protect the historic environment and ensure that heritage assets are managed in a way that best sustains their significance. Key issues to consider in proposals for additions to heritage assets, including new development affecting the setting of designated heritage assets are proportion, height, massing, bulk, use of materials, use, relationship with adjacent assets, alignment and treatment of setting. The importance of considering the impact of new development on the significance of designated heritage assets, furthermore, is expressed in section 12 of the National Planning Policy Framework (NPPF). Paragraph 132 of the NPPF, for example, advises that the significance of designated heritage assets can be harmed or lost through alterations or development within their setting. Such harm or loss to significance requires clear and convincing justification. The NPPF also makes it clear that protecting and enhancing the historic environment is sustainable development (paragraph 7).

The setting of heritage assets is defined in the Glossary of the NPPF which advises that setting is the surroundings in which an asset is experienced. Paragraph 13 of the Conservation section within the Planning Practice Guidance (PPG) advises that a thorough assessment of the impact on setting needs to take into account, and be proportionate to, the significance of the heritage asset under consideration and the degree to which proposed changes enhance or detract from that

significance and the ability to appreciate it. Paragraph 13 also reminds us that the contribution made by setting does not necessarily rely on direct intervisibility or public access.

Additional advice on considering development within the historic environment is contained within the Historic England Good Practice Advice Notes (notably GPA2 and GPA3). In addition, 'Historic England Advice Note 2: making changes to heritage assets' advises that it would not normally be good practice for new work to dominate the original asset or its setting in either scale, material or as a result of its siting. Assessment of an asset's significance and its relationship to its setting will usually suggest the forms of development that might be appropriate. The junction between new development and the historic environment needs particular attention, both for its impact on the significance of the existing asset and the impact on the contribution of its setting.

Southwell Conservation Area Appraisal (2005) advises that Hill House is an important polite Georgian property within the Burgage area.

#### Significance of heritage asset(s)

Hill House is a substantial property of three storeys dating from 1800 with mid-19th, late 19th and 20th century phases. The building is constructed in red brick with stone dressings and slate roofs, most of which are hipped. The windows are typically sashes, and the overall composition is cohesive despite modern sub-division into apartments. The building also has historic interest due to its original occupant being John Thomas Becher, an important proponent of Poor Law reform and an association with the House of Correction on the Burgage.

The Burgage together with the Prebendage has some of the most elegant Georgian buildings in Southwell. Burgage House, The Burgage, Elmfield House, Burgage Manor, Burgage Lodge and Hill House all occupy superb sites around Burgage Green or at the top of Burgage Lane.

Historic maps reveal an area of outbuildings and glass houses in this part of the site. The main original shed is that situated along the boundary, and has been extended/alterd as part of an approved scheme in 2010 (ref 10/01049/LBC). Although now converted, the character of this part of the property, comprising remnants of gardener bothy/implement shed can still be understood.

#### Assessment of proposal

Conservation has no objection to the proposed development.

The proposed extension is modest. Whilst the proposal will project from the older linear arrangement of sheds, the addition is not considered to be obtrusive or harmful to the setting of Hill House in this case.

The structure will be intervisible with Hill House from much of the surrounding garden area, but given the existing domestic arrangements in place between Bechers Cottage and the adjacent Garden Lodge, the extension will not be unduly prominent. Moreover, the historic context of

garden related structures in this area is such that I do not find the proposal to be disharmonious. The design has been well-considered and has a suitable ancillary character. The detailing is also appropriate, and I note the use of traditional elements such as Flemish brick bond, lime mortar and natural Welsh slate.

The proposal will not be materially visible from the footpath, and will have little impact when seen in longer views from the south.

#### Other material considerations

We note that an appeal was dismissed in 2010 for an extension to Bechers Cottage as part of a redevelopment scheme (ref 10/00282/FUL). This proposal was materially different from that before us now insofar as the extension was located at the southern end of the property. In that context, Conservation fully agrees with the Inspectorate decision, noting that the extension would have blocked views of the house on approach from the south along the footpath and included partial demolition of the attractive historic boundary wall. The current proposal is set further along and would not impinge on views of the house from the footpath nor result in alteration of the boundary wall.

#### Recommendation/summary of opinion

The proposed development causes no harm to the special interest of Hill House, a Grade II listed building. The proposal is considered to cause no harm to the setting of any other listed building, and has no adverse impact on the character and appearance of the Southwell CA. The proposal therefore accords with the objective of preservation required under section 66 and 72 of the Act, and complies with heritage advice contained within the Council's LDF DPDs and section 12 of the NPPF.

No concurrent listed building consent (LBC) had been submitted. Given that the original building is determined to be curtilage listed within the meaning of section 1(5) of the Act, the applicant has been advised to submit an LBC. If the current planning application is approved in absence of LBC, a suitable informative note should be used to advise that LBC is required.

Notwithstanding the above comments, if approved, the following issues should be conditioned:

- All facing materials (samples of bricks, slate and steel)
- Joinery details (suitably scaled window/door schedule)
- All external accretions and RWGs
- Further details of verge/eaves, rooflights, roof glazing and garden store"

**9 Neighbour comments have been received in objection to the proposal** – the comments are summarised as followed:

- Impact upon the character and appearance of Hill House (Grade II listed) and the conservation area

- Inappropriate materials within the conservation area and impact to the boundary wall
- Impact upon the communal garden area
- Reference to the appeal decision and similarities with the applications
- Proposal is against the view of other occupiers on the site
- Inappropriate and out of keeping fenestration details
- Design of the extension will be out of keeping with the hipped style of the surrounding area

### Comments of the Business Manager

#### *Appraisal*

Section 16 (2) of the Planning (Listed Buildings and Conservation Areas) Act 1990 states that in considering whether to grant listed building consent for any works, the local planning authority...shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.

Paragraph 132 of the NPPF, for example, advises that the significance of designated heritage assets can be harmed or lost through alterations or development within their setting. Such harm or loss to significance requires clear and convincing justification.

The setting of heritage assets is defined in the Glossary of the NPPF which advises that setting is the surroundings in which an asset is experienced. Paragraph 13 of the Conservation section within the Planning Practice Guidance (PPG) advises that a thorough assessment of the impact on setting needs to take into account, and be proportionate to, the significance of the heritage asset under consideration and the degree to which proposed changes enhance or detract from that significance and the ability to appreciate it.

Comments received from neighbouring occupiers and the Town Council which object to the proposal in terms of impact on the neighbouring Listed Building and the Conservation Area are acknowledged and have been duly taken into account.

The Conservation Officer has reviewed this application and raises no objection, concluding that the proposed development would cause no harm to listed buildings, their setting or the wider Conservation Area. Their full comments can be read in the consultation section above.

I note the comments of the Conservation Section and I concur with the expressed opinion that the proposed development would not result in any detrimental impact to the surrounding listed assets or the character and appearance of the conservation area.

Subject to the conditions outlined in the Conservation Officers comments I am satisfied that given the extension has been carefully designed so as to mitigate any harm to the listed building and will not be materially visible from the footpath, the proposal will not affect the character and appearance of the Conservation area.

I note that comments in objection to the proposal have been received detailing that the proposal, by virtue of its size, scale and orientation, is not subordinate to or respectful of the grain of the existing building. Whilst I acknowledge these comments it is not considered that the proposal is out of scale with the host dwelling. The proposed extension seeks to increase the footprint of the building by approximately 26 sq.m net additional floor space; the design has been considered so as to reflect a progressive historical development of outbuildings; in achieving this the extension is proposed to have different widths and steps down with the slope of the land. This design reflects the vernacular phases of development as well as reduces the visual impact of the additional structures, including the addition of a 'cold frame' type structure to provide garden storage which is a traditional feature in this context.

The comments received with regards to impact on views on the heritage assets are noted. Given the position of the extension to the northern end of the host building close to existing built form and that it will not significantly extend any built form further east than currently exists officers are of the view that the proposal would not unduly impact on views to or from the Listed Building.

In addition, the roof pitches have been designed so that they do not exceed the ridge height of the host dwelling and the extension is pulled in from the northernmost side elevation of the dwelling so as to assimilate it within the existing built form of the property. Whilst I acknowledge that the extension will project approx. 7.56 m in length to the east I am satisfied that given the proportions of the host building, the extension by virtue of its design and scale will not be an incongruous addition to the building but is subordinate and respects the character of the host dwelling.

Furthermore I am satisfied that given the domesticated appearance of the immediately surrounding area already, with fencing and garden wall detailing, that the addition of this extension will not materially alter the character and appearance of the surrounding area, or the relationship that Hill House has with the site as a whole.

The positive conclusion drawn by the Conservation Officer on the other elements of the proposed development are noted and I am satisfied that these will also aid preservation of the special interest of the application site, as well as its setting and the setting of surrounding listed buildings. However conditions will be imposed that require precise details of all facing materials, joinery details, external accretions and RWG and further details of verge/eaves, rooflights, roof glazing and garden store in this instance in order to safeguard the special interest of the host dwelling and relationship with the surrounding listed buildings.

Taking the above into account I am satisfied that the proposal by virtue of its siting and scale will not unduly impact on the Listed Building, the Conservation Area setting of the site and the surrounding area.

The proposal therefore accords with the objective of preservation set out under sections 66 and 72, part II of the 1990 Listed Building and Conservation Areas Act, as well as complying with heritage policies and advice contained within the Council's LDF DPDs (DM5, DM9 and CP14) and section 12 of the NPPF and its accompanying PPG.

### *Other Matters*

I note that comments have been made in respect of the previous appeal decisions on the site. An appeal was dismissed in 2010 for an extension to Bechers Cottage as part of a redevelopment scheme (ref 10/00282/FUL) where the inspector commented on the design of the projecting gable extension as being a negative part of the overall scheme. This proposal was materially different from that before us now insofar as the extension was located at the southern end of the property. In that context, the Conservation Officer fully agrees with the Inspectorate decision, noting that the extension would have blocked views of the house on approach from the south along the footpath and included partial demolition of the attractive historic boundary wall.

The current proposal is set further along and would not impinge on views of the house from the footpath nor result in alteration of the boundary wall and as such is considered to be materially different to the appeal decision and is appraised on its own merit. Whilst considered to be materially different to that in 2010 the current still proposes to project eastwards with the gable end terminating facing the formal lawn. Whilst I appreciate that the inspector made reference to the extension reducing the simple nature of the existing building, making it more prominent in the arrangement of buildings on the site I am satisfied that given the proposal now ties the bulk of the extension towards the north of the host dwelling and the existing buildings on the site, and given its modest size, it would not appear incongruous when read with the wider site. Moreover, when seen in views towards the house from the public footpath to the south I am of the view that the projecting gable, positioned towards the north, close to the neighbouring dwelling would not appear out of keeping with the alignment of buildings. Additionally, I am also satisfied that in this instance, the gabled design of the roof would not appear incongruous with the predominately hipped rooves on the site.

Objections have also noted that the proposed extension would be against the view of the other occupiers of the site. As with any planning application, officers have given due and careful consideration to all representations made and material planning considerations have been appraised within the relevant sections of this report.

### *Conclusion and Planning Balance*

Given the above, it is considered that the proposed development will preserve the special interest of the listed building and cause no harm to any other designated heritage asset.

The proposal therefore accords with the objective of preservation set out under sections 66 and 72, part II of the 1990 Listed Building and Conservation Areas Act, as well as complying with heritage policies and advice contained within the Council's LDF DPDs (DM5, DM9 and CP14) and section 12 of the NPPF and its accompanying PPG.

### **RECOMMENDATION**

**Listed Building Consent is granted subject to the conditions below;**

## Conditions

01

The development hereby permitted shall not begin later than three years from the date of this permission.

Reason: To comply with the requirements of Section 51 of the Planning and Compulsory Purchase Act 2004.

02

The development hereby permitted shall not be carried out except in complete accordance with the approved plans:

9213-01 Existing Plans and Elevations

9213-20 Proposed Ground Floor Plan

9213-21 Proposed Elevations

unless otherwise agreed in writing by the local planning authority through a non-material amendment.

Reason: So as to define this permission.

03

No works shall be commenced until samples of the all facing materials (including bricks, slate and steel) have been submitted to and approved in writing by the local planning authority. The works shall thereafter be carried out in accordance with the approved details unless otherwise agreed in writing by the local planning authority.

Reason: In the interests of preserving the setting of listed buildings and in order to preserve the character and appearance of the conservation area.

04

No works shall be commenced in respect of the features identified below, until details of the design, specification, fixing and finish in the form of drawings and sections at a scale of not less than 1:10 have been submitted to and approved in writing by the local planning authority. The works shall thereafter be undertaken in accordance with the approved details unless otherwise agreed in writing by the local planning authority.

- External windows (including roof windows), doors and their immediate surroundings, including details of glazing and glazing bars.
- Verges and eaves
- All external accretions including rainwater goods
- Garden Store

Reason: In the interests of preserving the setting of listed buildings and in order to preserve the character and appearance of the conservation area.

Note to Applicant

01

The application as submitted is acceptable. In granting permission without unnecessary delay the District Planning Authority is implicitly working positively and proactively with the applicant. This is fully in accordance with Town and Country Planning (Development Management Procedure) Order 2010 (as amended).

02

For the avoidance of doubt this consent should be read in conjunction with Planning Application 17/01787/FUL.

BACKGROUND PAPERS

Application case file.

For further information, please contact Honor Whitfield on ext. 5827.

All submission documents relating to this planning application can be found on the following website [www.newark-sherwooddc.gov.uk](http://www.newark-sherwooddc.gov.uk).

**Kirsty Cole**  
**Deputy Chief Executive**





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# Agenda Item 8

PLANNING COMMITTEE – 16 JANUARY 2018

AGENDA ITEM NO. 8

<b>Application No:</b>	<b>17/02143/FUL</b>	
<b>Proposal:</b>	<b>Improvements and Extensions to Southwell Methodist Church</b>	
<b>Location:</b>	<b>Southwell Methodist Chapel, Prebend Passage, Westgate, Southwell, Nottinghamshire</b>	
<b>Applicant:</b>	<b>The Church Council, Southwell Methodist Chapel</b>	
<b>Registered:</b>	<b>23 November 2017</b>	<b>Target Date: 18 January 2018</b>

**This application is presented to the Planning Committee for determination as it has been referred by Cllr P Rainbow at the request of the Town Council due to insufficient information and concerns of the close proximity to the listed Saracens Head Hotel.**

## The Site

Southwell Methodist Church is a Grade II listed building in the Southwell town centre which is in the Town Centre character area of the Southwell Conservation Area. The building is dated 1839 and was first listed in 1992. In 1996 an extension was added to improve access which includes the three large glazed screens on the west, north and east elevations which are visible from the car park to the rear of the Saracens Head. The main elevation of the listed church faces Prebend Passage and is not prominent in the wider conservation area.

There are several listed buildings located in close proximity to the application site; notably the Grade II\* listed Saracens Head hotel and Grade II listed buildings along the Westgate/Market Place and Queen Street. The positioning of the Methodist Church is such that it is largely not visible from the main town roads and is accessed through the car park behind the Saracens Hotel. There is a footpath that runs along the Prebend Passage that runs along the South elevation of the site as well as a path linking the Saracens Head hotel with the car park spanning the north elevation.

## Relevant Planning History

PREAPP/00159/17 – Improvements and Extensions.

PREAPP/00085/17 – Proposed glass/brick conservatory style extension.

13/01124/LBC - Replace a ground floor window, reducing size by one blue brick course – Consent not required 11.09.2013.

PRE/00231/10 - Curtain walling system.

10/00788/FUL - Replace existing timber/glazing units on west, north and east elevations of extension to the church (1996 build). Change of materials from wood to coated aluminium curtain walling system – Permitted 27.07.2010.

10/00789/LBC – Replace existing timber/glazing units on west, north and east elevations of extension to the church (1996 build). Replacement necessary due to rots and splitting as a result of poor wood quality at installation and some design aspects. Change of materials from wood to coated aluminium curtain walling system but retaining image and colours as existing – Withdrawn 2010.

PRE/01361/09 - Replace internal and external woodwork.

94/51658/FUL - Alterations and extensions to north end of church to provide extra rooms and new entrance with paved forecourt – Permitted 25.04.1994.

93/51595/FUL - Alterations and extensions to north end of church to provide extra rooms and new entrance with paved forecourt – Withdrawn 1994.

### The Proposal

Full planning permission is sought to extend the Church entrance lobby situated towards the North East of the site. The applicant has advised that the intention is for this extension to improve the versatility of the entranceway and provide additional floorspace for the growing congregation and use of the church. It is proposed that the extension be sited within the footprint of the existing disused courtyard and the floor level be built up to match the existing level of the entrance lobby. It is suggested in the submitted information that the extension is proposed to be predominately glazed so as to minimise the visual impact it would have on the listed building.

The proposal is for a single storey extension, proposed to minimise the visual impact on the building. The double roof pitch has been designed to reflect the existing roof pitches and blend with the form of the church with a grey aluminium curtain wall (7.2 m ridge height) and slate tiled roof at 7.8 m ridge height and 5.8 m eaves height. The extension would be approx. 4 m wide and 3.5 m deep and sit within the footprint of the existing courtyard. The floor slab is to be constructed to match the level of the church lobby with the glazed curtain walls to be built over the existing courtyard walls with a pitched roof.

The existing window on the south east elevation of the church is proposed to be adjusted to accommodate the proposed extension.

### Departure/Public Advertisement Procedure

Occupiers of 8 properties have been individually notified by letter. A site notice has also been posted close to the site and an advert placed in the local press with an overall consultation expiry date of 7 January 2018.

### Planning Policy Framework

#### **The Development Plan**

*Newark and Sherwood Core Strategy DPD (adopted March 2011)*

- Core Policy 9: Sustainable Design
- Core Policy 14: Historic Environment
- SoAP 1 – Role and Setting of Southwell

*Newark & Sherwood Allocations & Development Management DPD*

- Policy DM5: Design
- Policy DM9: Protecting and Enhancing the Historic Environment
- Policy DM12: Presumption In Favour of Sustainable Development

*The Southwell Neighbourhood Plan 2015 (as adopted)*

- Policy DH1: Sense of Place

- Policy DH2: Public Realm
- Policy DH3: Historic Environment

### **Other Material Planning Considerations**

- National Planning Policy Framework 2012
- Planning Practice Guidance 2014

### Consultations

**Southwell Town Council** – “Southwell Town Council considered application 17/02143/FUL Southwell Methodist Chapel - Southwell and agreed unanimously to object to the application and asked that Cllr Bruce Laughton call in this application for the following reasons: Insufficient information is available and the council requires the LBC application and the comments of the conservation officer for consideration.”

**Southwell Civic Society** – No objections.

**NSDC Conservation Officer** – “Firstly, I would like to clarify that while the building is Grade II listed and the proposal requires Planning Permission, it does not require Listed Building Consent. This is because certain denominations (of which the Methodist Church is one) have their own system of granting what is effectively listed building consent, called Ecclesiastical Exemption. I note this is one of the reasons why the Town Council have objected to this application so they may find the following link useful: <https://historicengland.org.uk/advice/planning/consents/ecc-exemption/>

Southwell Methodist Chapel is a Grade II listed building, sited within Southwell Conservation Area. The historic portion of the building (dating to 1839) has had a modern extension (1996) to the side and rear and this proposal is to further increase this modern extension and make internal changes within this modern area. The proposal will not affect historic fabric.

The building is close to other listed buildings, including the Grade II\* listed Saracen’s Head, the setting of which is also a consideration. The building is visible from the carpark it sits adjacent to, as well as from the rear area of the Saracen’s Head and Prebend Passage leading down onto West Gate/Market Place.

The proposal now submitted follows productive pre-application advice and I have no objection to this proposal.

The Church has extremely limited capacity to increase floor space, as it does not really own any land beyond its footprint. There is a small section adjacent to the rear of the historic portion, but this is understandably a less robust part of the building in terms of potential extensions. An opportunity, therefore, lies in this small, modern courtyard area to the rear, and the proposal is to build directly above this courtyard wall, not actually increasing the external footprint at all but increasing the height at this area, and internally creating a mezzanine for additional floor space.

The design of the extension follows the principles of the modern extension, which uses glazed curtain walls and gables. While bringing the footprint up, I feel the design remains recessive, as it steps down from the modern portion with a monopitch roof and then gives way to a lower gable. This roof pattern, which does initially seem complicated, actually helps the extension reflect the existing roofscape from each side.

The materials selected also match the host building, repeating the simple glazed screen and red cross, as well as the tiled roof of the host building. That the bulk of the extension is accommodated in glass gives a transparency that helps reduce its potential impact.

The best use for this building is to retain it in ecclesiastical use and I feel this use can be continued and expanded here with no harm to the special architectural or historic interest of the listed building.

While the proposal increases the bulk of the building in this area, I do not feel it will impact negatively upon the setting of any nearby listed building, in particular the Saracen's Head. The part of the Saracen's Head which is immediately adjacent is a modern section and houses the extracts and vents etc., so is a more robust part of the building. In any event, even seen alongside the more significant historic timber framed ranges and Assembly Rooms, I do not think this extension is harmful. I am content that this extension is still read within the context of the existing church and does not change the impact of this church overall. As a place of worship it is not unusual for these to be quite dominant structures, so I am comfortable that this is an eye-catching addition but is not overly imposing. In a relatively dense urban context, where the Saracen's Head and other listed buildings have always sat close to other historic buildings, including this church, I do not think it is incongruous to look out onto, or see both structures alongside each other, even with this modern addition.

For the same reasons I think this addition is a fairly natural addition to this place of worship and preserves the special character and appearance of the Conservation Area.

Subject to conditions over materials and details, I have no objections."

**Ramblers Association** – "As long as there is no encroachment onto Prebend Passage (Southwell Footpath 84) which runs alongside the chapel we have no objection."

**NSDC Access and Equalities Officer** – "Consider inclusive access for all, with particular reference to access and facilities for disabled people. It is recommended that the developer's attention be drawn to BS 8300: 2009 'Design of Buildings and their approaches to meet the needs of disabled people – Code of Practice' which contains useful guidance. Approved Document M and K of the Building Regulations contain further useful information in this regard.

It is recommended that the developer be advised to consider access to, into and around the proposal along with the provision of accessible features and facilities to ensure that the proposal is equally convenient to access and use throughout.

It is recommended that the developer be mindful of Equality Act 2010 requirements and that a separate enquiry be made regarding Building Regulations matters."

**Historic England** – "Thank you for your letter of 18 December 2017 regarding the above application for planning permission. On the basis of the information available to date, we do not wish to offer any comments. We suggest that you seek the views of your specialist conservation and archaeological advisers, as relevant.

It is not necessary for us to be consulted on this application again, unless there are material changes to the proposals. However, if you would like detailed advice from us, please contact us to explain your request."

**NCC Rights of Way** – “I have attached a copy of the working copy of the Definitive Map, indicating the recorded public rights of way in the vicinity of the proposed development site, for your reference. Southwell public footpath 84 runs behind the church, but will not be affected by the proposal.”

**No comments have been received from any interested parties or neighbouring properties.**

#### Comments of the Business Manager

##### *Principle of Development*

Development of this nature is deemed accepted in principle subject to an assessment of numerous criteria outlined in Core Policy 9 and Policy DM5 of the Development Plan. These criteria include the provision that the proposal should respect the character of the building and surrounding area and have no adverse impact upon the amenities of neighbouring properties. The overall shape, size and position of an addition must not dominate the existing building or the character of the surrounding area.

Given that the site is located within the Southwell Conservation Area and is a listed building located close to other listed buildings, regard must also be given to the impact upon the listed building itself, the distinctive character of the area and should seek to preserve and enhance the conservation area and the setting of other listed buildings in accordance with Policy DM9, Core Policy 14 and those heritage policies contained within the Southwell Neighbourhood Plan.

Paragraph 137 of the National Planning Policy Guidance states that, 'Local planning authorities should look for opportunities for new development within Conservation Areas...to enhance or better reveal their significance.'

Section 72 of the Planning (Listed Building and Conservation Areas Act) 1990 states, in relation to the general duty as respects conservation areas in exercise of planning functions that, 'special attention shall be paid to the desirability of preserving or enhancing the character and appearance of that area'.

Heritage Development Plan policies, amongst other things, seek to protect the historic environment and ensure that heritage assets are managed in a way that best sustains their significance. The importance of considering the impact of new development on the significance of designated heritage assets, furthermore, is expressed in section 12 of the National Planning Policy Framework (NPPF).

Paragraph 132 of the NPPF, for example, advises that the significance of designated heritage assets can be harmed or lost through alterations or development within their setting. Such harm or loss to significance requires clear and convincing justification. The NPPF also makes it clear that protecting and enhancing the historic environment is sustainable development (paragraph 7).

##### *Impact upon the Listed Building and Character of the Conservation Area*

The internal conservation officer has been consulted and has offered the following comments:

*“The design of the extension follows the principles of the modern extension, which uses glazed curtain walls and gables. While bringing the footprint up, I feel the design remains recessive, as it steps down from the modern portion with a monopitch roof and then gives way to a lower gable. This roof pattern, which does initially seem complicated, actually helps the extension reflect the existing roofscape from each side.*

*The materials selected also match the host building, repeating the simple glazed screen and red cross, as well as the tiled roof of the host building. That the bulk of the extension is accommodated in glass gives a transparency that helps reduce its potential impact.*

*While the proposal increases the bulk of the building in this area, I do not feel it will impact negatively upon the setting of any nearby listed building, in particular the Saracen’s Head. The part of the Saracen’s Head which is immediately adjacent is a modern section and houses the extracts and vents etc., so is a more robust part of the building. In any event, even seen alongside the more significant historic timber framed ranges and Assembly Rooms, I do not think this extension is harmful. I am content that this extension is still read within the context of the existing church and does not change the impact of this church overall. As a place of worship it is not unusual for these to be quite dominant structures, so I am comfortable that this is an eye-catching addition but is not overly imposing. In a relatively dense urban context, where the Saracen’s Head and other listed buildings have always sat close to other historic buildings, including this church, I do not think it is incongruous to look out onto, or see both structures alongside each other, even with this modern addition.*

*For the same reasons I think this addition is a fairly natural addition to this place of worship and preserves the special character and appearance of the Conservation Area.”*

I note that Historic England do not make comments and the Southwell Civic Society raise no objection in this instance but that the Town Council have raised objection as they feel insufficient information has been received, that a LBC application is required along with the comments of the conservation officer for their consideration.

As can be noted above, the Conservation Officer is satisfied (as am I) that sufficient information has been received to make a thorough assessment of the proposal. The Town Council have been directed to the accompanying Design and Access Statement that has been submitted with the application in order for them to better understand the proposal. Listed building consent is not required for the alterations/extension in this instance as the church benefits from an ecclesiastical exemption and revised comments have not been received from the Town Council following the comments of the Conservation Officer.

I concur with the comments of the conservation officer and am of the view that the proposed works would cause no harm to the special interest of the listed building given the historic portion of the building has had a modern extension to the side and rear and this proposal is to further increase this modern extension, and therefore accords with the objective of preservation required under section 16 of the Act. The proposal also sustains the setting of other listed buildings and has no adverse impact on the character and appearance of the Southwell CA.

The proposal therefore accords with the objective of preservation set out under section 72, part II of the 1990 Listed Building and Conservation Areas Act, as well as complying with heritage policies and advice contained within the Council’s LDF DPDs (DM5, DM9 and CP14) and section 12 of the NPPF.

### *Impact upon Neighbour Amenity*

The NPPF seeks to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings. Policies CP9 and DM5 provide that development proposals should ensure no unacceptable reduction in amenity upon neighbouring development.

The building is considered to be quite visible in most directions given its positioning being in a well-used public car park, its proximity to the Saracens Head and Prebend Passage. Given this proposal seeks to extend within the existing footprint of the building I am of the view that the proposal would respect the neighbouring amenity of the surrounding buildings and not present as an incongruous addition to the existing building.

There is a small flat roofed terraced area to the rear, which forms the natural footprint for this extension. Of all the elevations this is the most discrete, its rear aspect facing onto the modern C20 extension to the Saracen's Head. However, sideways views from the public carpark and Prebend Passage make any extension here potentially quite sensitive still. I am of the view that the proposal would respect the neighbouring buildings and as such would not detrimentally impact upon the neighbouring amenity of surrounding properties.

Given the separation distance (approx. 8 m from the closest elevation of the Saracen's Head) and the orientation of the host building I do not feel there would be any adverse loss of light to either neighbour as a result of this extension.

The extension is not considered to have an overbearing impact upon the neighbouring properties by virtue of its scale and the design is considered to be acceptable given the replications of existing glazing and comments from the conservation team in support of materials. As such, I consider that the proposal complies with the relevant policies of the Development Plan.

### Conclusion

Given the above, it is considered that the proposed development would preserve the special interest of the listed asset which is consistent with S.16 of the Act as well as policy and advice contained within Section 12 of the NPPF. The proposal also accords with the identified policies of the Development Plan in that it is considered to preserve the character and appearance of the Southwell Conservation Area as well as the setting of other listed buildings and would not harm the amenity of neighbouring properties or land. Accordingly, I recommend that planning permission be granted.

### **RECOMMENDATION**

**That full planning permission is approved subject to the following condition(s);**

#### **Conditions**

01

The development hereby permitted shall not begin later than three years from the date of this permission.

Reason: To comply with the requirements of Section 51 of the Planning and Compulsory Purchase Act 2004.



02

The development hereby permitted shall not be carried out except in complete accordance with the following approved plan references:

- Site Location Plan
- Proposed Layout, Elevations and Block Plan – 63.1202.1 - 03

unless otherwise agreed in writing by the local planning authority through the approval of a non-material amendment to the permission.

Reason: So as to define this permission.

03

No development shall be commenced until details/samples of the materials identified below have been submitted to and approved in writing by the local planning authority. Development shall thereafter be carried out in accordance with the approved details unless otherwise agreed in writing by the local planning authority.

Roof Tiles

Aluminium – colour and finish

Rain Water Goods

Glazing: Film treatment and colour

Reason: In order to preserve or enhance the character and appearance of the conservation area and to safeguard the special architectural or historical appearance of the listed building.

04

No development shall be commenced in respect of the features identified below, until details of the design, specification, fixing and finish in the form of drawings and sections at a scale of not less than 1:10 have been submitted to and approved in writing by the local planning authority. Development shall thereafter be undertaken in accordance with the approved details unless otherwise agreed in writing by the local planning authority.

Sections of glazed curtain wall, glazing details and their immediate surroundings

Verges and eaves

Rainwater goods

Reason: In order to preserve or enhance the character and appearance of the conservation area and to safeguard the special architectural or historical appearance of the building.

### **Notes to Applicant**

01

The applicant is advised that all planning permissions granted on or after the 1<sup>st</sup> December 2011 may be subject to the Community Infrastructure Levy (CIL). Full details of CIL are available on the Council's website at [www.newark-sherwooddc.gov.uk/cil/](http://www.newark-sherwooddc.gov.uk/cil/)

The proposed development has been assessed and it is the Council's view that CIL is not payable on the development hereby approved as the gross internal area of new build is less 100 square metres.

02

The application as submitted is acceptable. In granting permission without unnecessary delay the District Planning Authority is implicitly working positively and proactively with the applicant. This is fully in accordance with Town and Country Planning (Development Management Procedure) Order 2010 (as amended).

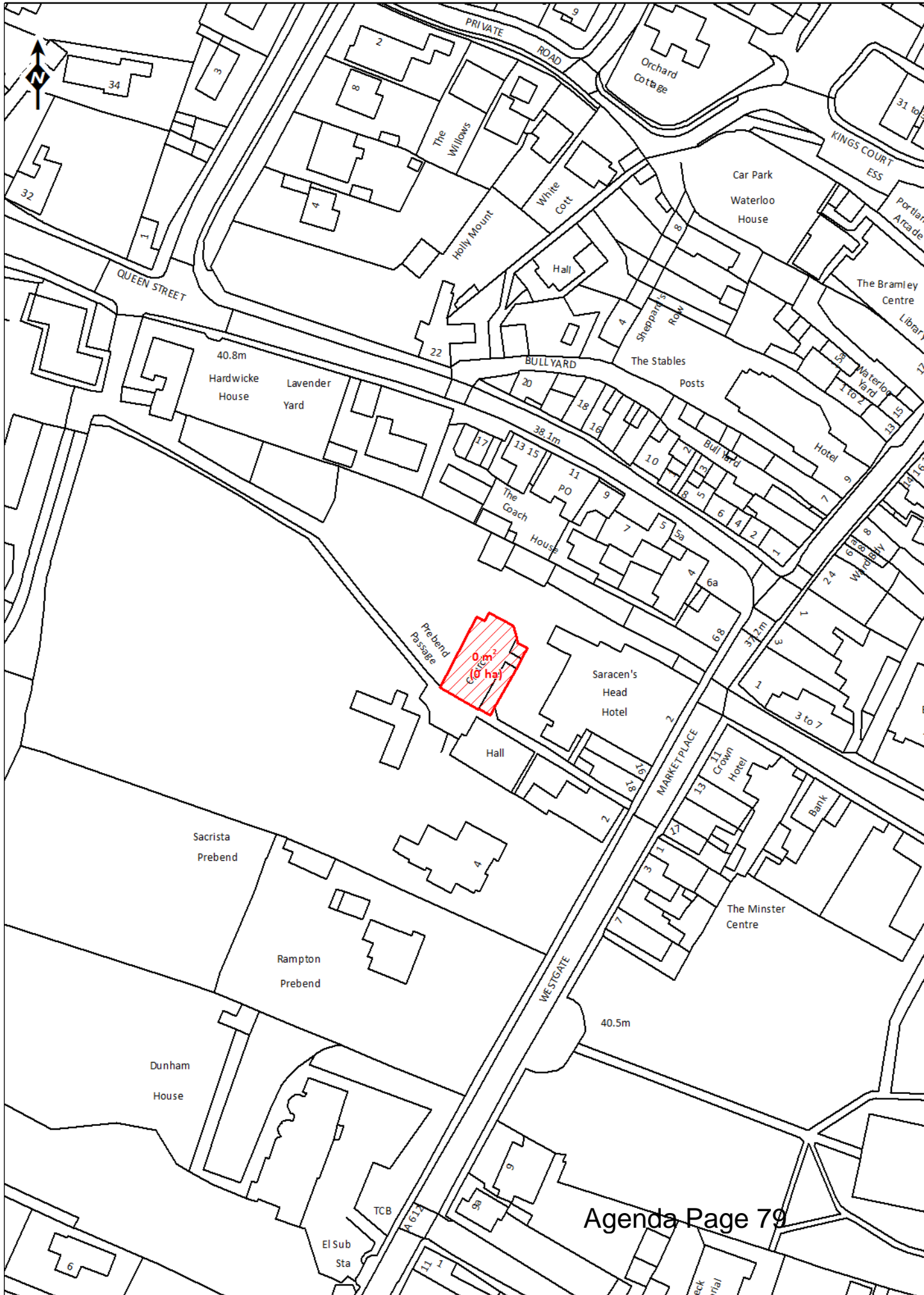
Background Papers

Application case file.

For further information, please contact Honor Whitfield on ext. 5827.

All submission documents relating to this planning application can be found on the following website [www.newark-sherwooddc.gov.uk](http://www.newark-sherwooddc.gov.uk).

**Kirsty Cole**  
**Deputy Chief Executive**



# Agenda Item 9

PLANNING COMMITTEE: 16 JANUARY 2018

AGENDA ITEM NO.: 9

<b>Application No:</b>	<b>17/01751/FUL</b>		
<b>Proposal:</b>	<b>Householder application for extension to existing bungalow, to comprise new master bedroom, ensuite bathroom and study.</b>		
<b>Location:</b>	<b>The Byre, Bathley Lane, Little Carlton, NG23 6BY</b>		
<b>Applicant:</b>	<b>Mrs Margaret Gray</b>		
<b>Registered:</b>	<b>12.10.2017</b>	<b>Target Date:</b>	<b>18.12.2017</b>
	<b>Extension of Time Agreed until 19.01.2018</b>		

**This application is being referred to the Planning Committee for determination by the local ward member (Cllr Saddington) due to impact on neighbours.**

## The Site

The application site is located within Little Carlton. It is a single storey historic barn which has been converted into a residential property and associated curtilage. It would appear that the oldest phase is 19<sup>th</sup> Century, with a mid-20<sup>th</sup> Century bay and there is also a garden room addition approved in 2002. The property is not listed, nor is it located in a conservation area, however it is considered to be a non-designated heritage asset. It is predominantly of a linear formation with a small attached outbuilding located on the north-western corner of the property.

Neighbouring properties are predominantly residential with open fields to the rear used for the keeping of horses related to a neighbouring property. The site itself takes access from Bathley Lane and is accessed via large gates. It is only the access that fronts onto Bathley Lane; the remainder of the site is located directly to the rear of Holly Cottage. To the north lies Orchard Bungalow. The property at Orchard Bungalow is located in line with Holly Cottage. To the South lies a property known as The Bee Hive.

The access to the property is located within flood zone 2 as well as a very small part of the existing building (the western most part).

## Relevant Planning History

76/915 - Barn Conversion. Planning permission refused November 1976.

96/50848/FUL - Conversion of stable/outbuildings into dwelling. Planning permission granted September 1996.

02/01357/FUL - Proposed extension to form a sitting room to the barn conversion. Planning permission granted August 2002.

## The Proposal

The application is for an extension to the existing bungalow, to comprise new master bedroom, en-suite bathroom and study. The proposed new extension would run at right angles to the existing dwelling almost creating an “L” shape footprint except that it would be set in from the western elevation of the existing building by approx. 1 metre.

Amended plans have been received during the lifetime of the application. The proposal as revised would measure 9.7m in length (projecting towards the north) and 4.72m in width. It would measure 2.5m to the eaves and 4.9m to the ridge-line.

## Departure/Public Advertisement Procedure

Occupiers of six properties have been individually notified by letter.

## Planning Policy Framework

### The Development Plan

#### **Newark and Sherwood Core Strategy DPD (Adopted March 2011)**

- Core Policy 9 Sustainable Design
- Core Policy 14 Historic Environment

#### **Allocations and Development Plan Development Plan Document (DPD)**

- Policy DM5 Design
- Policy DM6 Householder Development
- Policy DM9 Protecting and Enhancing the Historic Environment

## Other Material Planning Considerations

- National Planning Policy Framework (NPPF)
- National Planning Policy Guidance (NPPG)
- Householder Development Supplementary Planning Document Adopted November 2014
- Conversion of Traditional Rural Buildings Supplementary Planning Document Adopted November 2014

## Consultations

**South Muskham and Little Carlton Parish Council:-** Object 03/01/2018:

“Cllr Mrs Sue Saddington (District Councillor for South Muskham/Little Carlton) recently emailed the Parish Council to ask for further information with regard to this planning application, particularly as it was likely to be included for consideration on the agenda for the next NSDC Planning Committee.

As you are aware, the Parish Council **unanimously AGREED to OBJECT to this application on the grounds that the proposed extension was too large for the available land; it was too close (within one metre) to both neighbouring boundaries and too tall with regard to**

## **design and visual impact.**

On checking the NSDC website we are now particularly concerned to note that there appears to have been a re-submission of the plans relating to this application, which may have been as a result of the only other initial objection raised by your own Conservation Team who have now removed their objection but may now have created a worse situation for the neighbours. And the site is not even in a Conservation Area.

The revised proposals do nothing to address the concerns raised by the Parish Council or more importantly the close neighbours. Indeed, we note that the roof pitch has now been raised to the height of the existing dwelling which has made the issue of visual impact much worse, particularly for the residents of Holly Cottage.

In talking to the neighbours it was understood that, originally, the applicant had spoken of a smaller extension, terminating some 1.5 - 2 metres from the property boundary plus with a reduced ridged height. This, we understand, was deemed more acceptable to the neighbours. I understand that being a consultee at the initial planning application process, small changes to the plans can be made without further consultation being necessary. Since the Parish Council have not been made aware of the proposed changes, I am guessing that the neighbours may also be unaware that their concerns have been disregarded and that the final plans will only exacerbate those concerns."

**16/11/2017** - Previously objected *"The proposed extension was too large for the available land; it was too close (within one metre) to both neighbouring boundaries and too tall with regard to design and visual impact."*

**Environment Agency** – Flood Risk Standing Advice (FRSA) applies.

**Internal Drainage Board** – Provide comments regarding drainage

**Conservation Officer** – Originally requested amendments to design. No objection to amended plans.

**In respect of the original plans 4 representations have been received from the occupiers of 2 neighbouring properties which can be summarised as follows:**

- The proposed extension is within 1 metre of the boundary and overlooks their only small lawned private garden;
- The building would be within 0.8 metres of their boundary and would be intrusive when using their back door;
- The wall and whole of the roof will be directly in their vision;
- Loss of light;
- Impact on their ability to be relaxed within the garden;
- Noise and privacy issues during building;
- Access and traffic issues during building;
- Extension is too big for the space available;
- There is more room to extend to the south of the property;
- An apple tree would need to be removed;
- The proposal is not as the applicant described to them;
- The proposed amended design shows the height of the roof to be even greater than

- previously, therefore allowing even less light than the original plan;
- The proposed amended design shows the width of the extension reduced. They do not object to the width of the extension, but to the length of it.

**A further consultation has taken place with the affected neighbours which expires on 13<sup>th</sup> January 2018. Any further comments will be reported to the Planning Committee on the late items schedule.**

### **Comments of the Business Manager**

#### Principle of Development

The site is located within the built up part of Little Carlton where the principle of extending a residential dwelling is considered acceptable, subject to it complying with relevant planning policy including Policy DM6 of the ADMDPD which sets out detailed guidance for householder development.

#### Impact upon Visual Amenity and Heritage Assets

The NPPF states that good design is a key aspect of sustainable development and new development should be visually attractive as a result of good architecture and appropriate landscaping. Policy DM6 of the DPD states that planning permission will be granted for householder development provided that the proposal reflects the character of the area and the existing dwelling in terms of design and materials. Policy DM5 is also relevant and has similar criteria to DM6. The Council's Householder Development Supplementary Planning Document also applies. As the host building is a converted traditional rural building, the Council's Conversion of Traditional Rural Buildings Supplementary Planning Document is also relevant along with Policies CP14 and DM9 which relates to heritage assets.

Except for access, the site is not prominent from public areas due to its location to the rear of Holly Cottage. Nonetheless, the visual impact of the proposal still requires careful consideration.

As the host building is a converted traditional rural building, advice was sought from the Council's Conservation Officer.

At its core this is a historic barn, built of three obvious phases. It would appear that the oldest phase is 19th Century, with a mid-20th Century bay and then a garden room addition which was approved in 2002. The building has been quite altered from its original form but it is understood that it was once stable buildings. There are elements of the conversion which have not best preserved its significance, for example large areas of perished brick have been replaced with a form of weather boarding, which gives it a rather unusual appearance, unlike most traditional barns. The windows, while quite simple, are storm fitting and the door is rather domestic. The addition of the garden room in 2002, has given a further somewhat incongruous and domestic addition.

The Conservation Officer has stated that as a general principle, this building could be extended without harm to the non-designated heritage asset. This is not often the case with many barns and the existing linear form of this building has also been considered in the assessment. However, this is a rather non-specific outbuilding in terms of original use and form, and one which has been quite altered. It would not necessarily look out of character if this was L plan and is the kind of general outbuilding which could have historically been formed as an L plan.

The Conservation Officer noted that the proposed extension is not a true L plan as it is set away from the corner of the host building slightly and it would certainly be 'neater' if it was a true L plan. However, this is not a significant deviation from an L plan and there is no real opportunity to view it as anything but an L plan. The Conservation Officer therefore advised that an objection could not be sustained on the position of the proposed extension. Given the comments received from neighbouring occupiers regarding the distance of the proposal to the shared boundary and impacts of overbearing and loss of light, such amendments were not sought. Whilst, I do not actually consider that an extension up to the boundary would cause issues of over bearing and loss of light significant enough to warrant a refusal on the grounds of neighbouring amenity, I also note that keeping the position of the extension where it is currently proposed would not cause design or heritage harm significant enough to warrant a refusal. On balance, therefore, it is considered that the siting of the extension should remain where originally proposed as it does not cause significant harm to the non-designated heritage asset and causes less impact on the amenity of neighbouring occupiers than if it were to be re-sited.

The Conservation Officer did, however, raise concerns with the original design of the proposed extension. In order to look like an organic addition, it needed to respect the gable width and roof pitch of the host building, which the original proposal did not as the gable width was wider than the host dwelling and the roof pitch shallower. Amendments were sought and the revised plans now show the proposed extension to have the same gable width and roof pitch as the host dwelling which is acceptable from a design and heritage point of view. This does produce a higher ridge line than originally proposed which has raised some neighbour objections, but these are addressed in the next section of this report.

The proposed fenestration is not truly like anything one would see in a barn, but equally is not overly domestic and is simple and robust. On balance, given the overall altered nature of this conversion, there are no objections to the fenestration of the proposed new extension.

For the reasons stated above, the amended design is considered acceptable from a design and heritage point of view.

Both the Parish Council and neighbouring occupiers have commented that the proposal is too large for the area proposed. It is not clear whether it is meant from a visual or amenity point of view. Impact on neighbouring amenity is assessed in the next section of this report. Once built, I consider that ample private amenity space will remain for the host dwelling which is in accordance with criterion 4 of Policy DM6. From a visual point of view, the extension is not considered to be overly dominant in comparison to the host dwelling, particularly now that the width has been reduced.

A neighbour has raised concerns that an apple tree would need to be removed to make way for the extension. However, the Local Planning Authority would not seek to protect a fruit tree and I have no objection to its loss.

#### Impact on Residential Amenity

Policy DM6 of the ADMDPD states planning permission will be granted for householder development provided it would not adversely affect the amenities of the adjoining premises, in terms of loss of privacy or overshadowing. Policy DM5 is also relevant.

This application has been referred to the Planning Committee due to impact on neighbours, the  
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Parish Council have objected on the grounds that the proposal is too close to neighbouring boundaries and letters of objection have been received from the occupiers of 2 no. neighbouring properties on the grounds of impact on residential amenity (comments summarised earlier in this report).

The neighbouring property to the south is not significantly affected by the proposed extension as the extension is to be located to the opposite side of the host dwelling. Due to separation distances, land to the east (fields) will not be significantly affected by the proposal.

The property to the north of the site is Orchard Bungalow. The proposed extension is within 0.9 metres and 1.2 metres from the shared side boundary with this property. This property does have a side door facing the site which is partially glazed. There will be no overlooking issues onto this property as no windows are proposed on the north elevation of the proposed extension facing the site. Whilst the proposal will be visible to the neighbours when using their side door, I do not consider that there will be significant massing / overshadowing issues onto this property. There are no main aspect windows facing the application site and the side amenity area between the neighbouring property and the proposal does not appear to be the main private amenity area serving the dwelling.

The property to the west of the site is Holly Cottage. This is a two-storey property with associated detached garage to the side / rear. The rear garden area to this property is split into two. There is a larger patio area to the rear of the house itself and a smaller grassed area to the rear of the detached garage. The extension is proposed to run parallel with the part of the rear boundary to the smaller grassed area.

Due to separation distances and the location of the extension to the other side of the host dwelling, the proposal will not impact on either the neighbouring house itself or the larger patio area directly to the rear of the neighbouring house. The existing detached garage is used for garaging / storage purposes, not a main aspect room so any harm would be minor and not in my view be sufficient to render the scheme unacceptable.

This leaves the impact on the smaller grassed area of the garden to be assessed. The proposed extension will run parallel to the boundary fence separating this part of the garden from the site. It will run almost the length of the shared boundary and will be located approx. 1 metre away from the shared boundary. The height to the eaves of the extension is approx. 2.5 metres and the height to the pitch is approx. 4.9 metres. The pitch of the roof runs away from the shared boundary. Ground levels are relatively flat. Boundary treatment consists of a fence approx. 1.8 metres high with trellis on top. There is some limited planting alongside this fence.

There are no overlooking issues onto this grassed garden area as no windows are proposed to this elevation of the extension.

There is unlikely to be significant overshadowing issues given its size and orientation. The proposal is located to the east of this garden area so will not affect sunlight for the majority of the day. The majority of the wall will be screened by the site's existing boundary treatment with the roof sloping away from the neighbouring property.

There may be some limited issues of overbearing. Certainly the proposal will be visible from this garden area given that it is 1 metre away from the boundary and measure between 2.5 metres and 4.9 metres. However, I do not consider that this is sufficiently harmful to warrant a refusal of the

application. This grassed garden area forms only a small part of the garden area. Whilst this may be the neighbour's only grassed area, there is further garden area on the site which is located closer to the host dwelling (this grassed area is the part of the garden furthest away from the house itself) and thus there is ample garden area that remains unaffected from the proposal.

As such I have to conclude that the proposal will not unacceptably impact on Holly Cottage itself nor on the garden area. There are no overlooking issues or significant overshadowing issues. Whilst there may be some minor overbearing issues, this is relatively limited and is contained to a small part of the garden only.

Neighbours have raised concerns regarding noise and privacy issues during building works. However, this would be for a temporary period only.

Overall I consider that the scheme accords with policies DM5 and DM6 in respect of neighbouring amenity.

#### Highways and Parking

Policy DM6 allows for householder development subject to 'provision for safe and inclusive access and parking provision can be achieved and there is no adverse impact on the highway network as a result of the proposal'.

The proposal would not impact upon existing off street parking provision or the existing vehicular access and the site has adequate space for adequate off street parking to accommodate vehicles from the extended property.

Neighbours have raised concerns regarding access and traffic issues during building works. However, this would be for a limited period only. The proposal accords with DM6 in my view.

#### Flood Risk

A householder flood risk assessment has been submitted with the application to confirm that floor levels within the proposed development would be set no lower than existing levels and flood proofing of the proposed development would be incorporated where appropriate. The proposal therefore complies with the Standing Advice.

#### Conclusion

The principle of development is considered to be acceptable, the siting, scale and design of the proposal is considered acceptable and sufficient private amenity space would remain to serve the host dwelling. The development would not be detrimental to the amenity of neighbouring properties by reason of overlooking, overshadowing or overbearing impact and there is no detrimental impact upon highway safety or flood risk at the site.

#### RECOMMENDATION

**That full planning permission is approved subject to the conditions and reasons shown below.**

## Conditions

01

The development hereby permitted shall not begin later than three years from the date of this permission.

Reason: To comply with the requirements of Section 51 of the Planning and Compulsory Purchase Act 2004.

02

The development hereby permitted shall not be carried out except in complete accordance with the following approved plan references:

Location Plan, received 23<sup>rd</sup> October 2017

Drawing no. 06B Revised Proposed Floor Plan, received 7<sup>th</sup> December 2017

Drawing no. 07A Revised Proposed East and North Facing Elevations, received 7th December 2017

Drawing no. 08A Revised Proposed West Facing Elevation, received 7th December 2017

Drawing no. 10A Revised Proposed Block Plan, received 7th December 2017

unless otherwise agreed in writing by the local planning authority through the approval of a non-material amendment to the permission.

Reason: So as to define this permission.

03

No development shall be commenced until details of the proposed facing bricks and clay pan tiles to be used in the development have been submitted to and approved in writing by the local planning authority. Development shall thereafter be carried out in accordance with the approved details unless otherwise agreed in writing by the local planning authority.

Reason: In the interests of visual amenity and in the interests of preserving the character and appearance of the non-designated heritage asset.

04

The windows and doors in the development hereby permitted shall be constructed entirely of the materials details submitted as part of the planning application unless otherwise agreed in writing by the local planning authority.

Reason: In the interests of visual amenity and in the interests of preserving the character and appearance of the non-designated heritage asset.

## Informatives

01

This application has been the subject of discussions during the application process to ensure that

the proposal is acceptable. The District Planning Authority has accordingly worked positively and pro-actively, seeking solutions to problems arising in coming to its decision. This is fully in accordance with Town and Country Planning (Development Management Procedure) Order 2010 (as amended).

02

The applicant is advised that all planning permissions granted on or after the 1st December 2011 may be subject to the Community Infrastructure Levy (CIL). Full details of CIL are available on the Council's website at [www.newark-sherwooddc.gov.uk/cil/](http://www.newark-sherwooddc.gov.uk/cil/)

The proposed development has been assessed and it is the Council's view that CIL is not payable on the development hereby approved as the gross internal area of new build is less 100 square metres.

03

The comments of the Internal Drainage Board are available to view on the electronic planning file on the Council's website.

#### BACKGROUND PAPERS

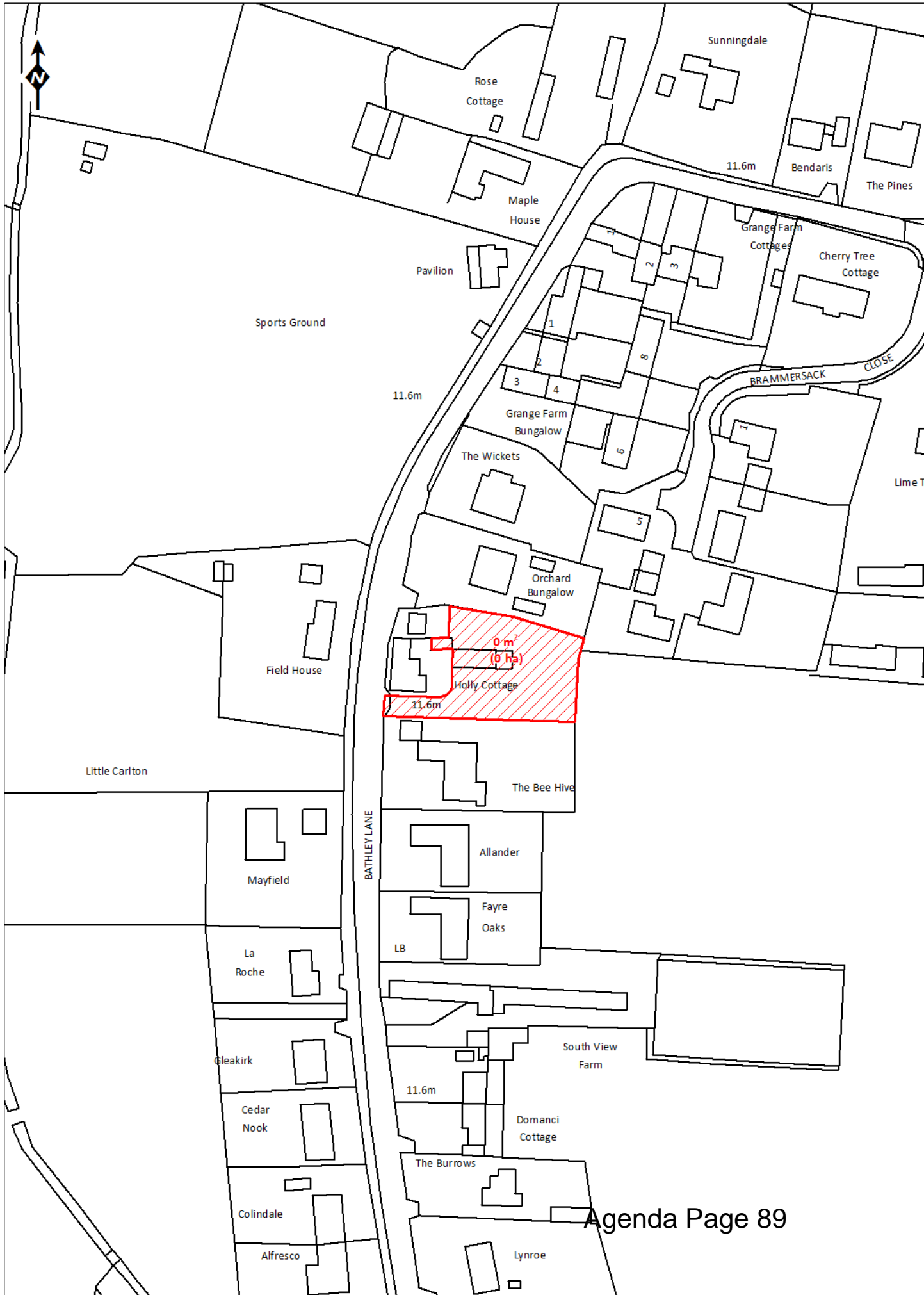
Application case file.

For further information, please contact Claire Turton on ext 5893.

All submission documents relating to this planning application can be found on the following website [www.newark-sherwooddc.gov.uk](http://www.newark-sherwooddc.gov.uk).

**Kirsty Cole**  
**Deputy Chief Executive**

Committee Plan - 17/01751/FUL



# Agenda Item 10

PLANNING COMMITTEE – 16 JANUARY 2018

AGENDA ITEM NO. 10

<b>Application No:</b>	<b>17/02016/FUL</b>	
<b>Proposal:</b>	<b>Proposed Bespoke Dwelling</b>	
<b>Location:</b>	<b>Garage House, Great North Road South Muskham</b>	
<b>Applicant:</b>	<b>Mr &amp; Mrs Brown</b>	
<b>Registered:</b>	<b>08.11.2017</b>	<b>Target Date: 03.01.2018</b>

**This application is being referred to the Planning Committee given that Officer's recommendation differs to that of the Parish Council.**

## The Site

The application site is located on the western edge of the settlement of South Muskham, on the western side of Great North Road. The development site appears to be a former paddock situated to the south of the host dwelling, albeit associated to the host dwelling. The host dwelling and associated garden situated to the north of the site are separated from the development site by post and rail fencing and planting. The host dwelling is a large, extensive two storey dwelling with detached roadside garage and other domestic outbuildings. At the time of visiting the site the paddock area was being used for the storage of materials, contained a metal clad outbuilding and a vehicle was parked on the site.

Access to the site and dwelling is currently gained from a gated access track to the south of the site and the dwelling can also be accessed directly from a driveway to the east of the dwelling off Great North Road. To the north of the site is a former garage which now operates as an architectural reclamation yard, to the west of the site are open agricultural fields and to the east (across the highway) are residential properties fronting onto Great North Road.

The site is flat and grassed and bound by a mix of post and rail fencing and hedging and contains a number of immature trees with one being mature and of interest on the southern boundary.

In accordance with Environment Agency Flood Zone maps, the site and the majority of the surrounding area is designated as being within Flood Zone 2.

## Relevant Planning History

There is no relevant formal planning history on the site albeit pre-application advice for a dwelling was sought prior to the submission of the current application by the applicants where negative advice was offered.

## The Proposal

The proposal seeks full planning permission for the construction of a large detached 4 bedroom dwelling of contemporary design with integral garage. The property, orientated north-east to

south-west in the plot is proposed to be two storey in height and feature 4 equal height gables of varying widths. The property would provide extensive ground floor accommodation and 4 bedrooms at first floor. It would be offset from the northern paddock boundary by 8m and offer a degree of separation from the host dwelling of approximately 27.5m. Access would be gained from the existing access point to the south, which would be improved and a garden area is proposed to the south within the existing paddock.

It is proposed that the dwelling be constructed of red brick and timber cladding with a metal standing seam roof and a large number of solar panels proposed on the south-eastern roof slopes.

The application has been supported by a Flood Risk Assessment and Design and Access Statement.

#### Departure/Public Advertisement Procedure

Occupiers of ten properties have been individually notified by letter.

#### Planning Policy Framework

##### The Development Plan

##### **Newark and Sherwood Core Strategy DPD (adopted March 2011)**

Spatial Policy 1 – Settlement Hierarchy

Spatial Policy 3 – Rural Areas

Spatial Policy 7 – Sustainable Transport

Core Policy 3 - Housing Mix, Type and Density

Core Policy 9 – Sustainable Design

Core Policy 10 – Climate Change

Core Policy 12 – Biodiversity and Green Infrastructure

Core Policy 13 – Landscape Character

##### **Allocations & Development Management DPD (adopted July 2013)**

Policy DM5 – Design

Policy DM7 – Biodiversity and Green Infrastructure

Policy DM8 – Development in the Open Countryside

#### Other Material Planning Considerations

- National Planning Policy Framework 2012
- Planning Practice Guidance 2014

#### Consultations

**South Muskham Parish Council** – The Parish **unanimously AGREED** to **SUPPORT** this application on the following grounds:

- It was an appropriate use of the land;
- The applicant currently lived on another part of the land. He wished to stay in the Village but moved away from existing traffic problems associated with a neighbouring business and provided himself with a more eco-viable property;

- In his application, the applicant had fully addressed any potential highway issues with regard to vehicular access;
- It was understood that previously a house was standing on the proposed site;
- The site for the proposed dwelling is close to a main entrance to the Parish but, importantly, it is suggested that the design of the property would not be detrimental to the area.

**Environment Agency** - Flood risk standing advice applies

**Trent Valley Internal Drainage Board** – No objection:

Surface water run off rates to receiving watercourses must not be increased as a result of the development

**NCC Highways Authority** – No objection subject to amendments

I am unconvinced that the proposed access off Great North Road satisfactorily enables cars to turn northwards from the site on to Great North Road without blocking any vehicle wishing to enter the access, or encroaching on to the opposite lane of the main road. I attach a plan showing a layout with a 3m radius which I know would operate safely. Either the drawings should be amended to reflect this sketch, or vehicle swept path drawings should be submitted to support the original design.

Also the layout does not adequately show a convenient turning facility for cars parked at the proposed dwelling to avoid long reversing manoeuvres.

If the above issues can be satisfactorily addressed then approval could be given with the following conditions attached:

- No part of the development hereby permitted shall be occupied until the access to the site has been completed and surfaced in a bound material for a minimum distance of 5m behind the highway boundary.

Reason: To reduce the possibility of deleterious material being deposited on the public highway (loose stones etc.).

- No part of the development hereby permitted shall be occupied until a vehicle access with 3m (minimum) kerbed radii is available for use and constructed in accordance with details to be first submitted to and approved in writing by the Local Planning Authority and thereafter constructed in accordance with the approved details.

Reason: In the interests of Highway safety.

- No part of the development hereby permitted shall be brought into use until the existing site access that has been made redundant as a consequence of this consent reinstated as verge.

Reason: In the interests of Highway safety.



- No part of the development hereby permitted shall be occupied until details of a vehicle turning area have been submitted to and approved in writing by the LPA and thereafter implemented.

Reason: To enable vehicles to enter and leave the site in a forward direction, in the interests of Highway safety.

**Note to Applicant:**

The development makes it necessary to construct/alter a vehicular access verge of the public highway. These works shall be constructed to the satisfaction of the Highway Authority. You are, therefore, required to contact [david.albans@nottscc.gov.uk](mailto:david.albans@nottscc.gov.uk) to arrange for these works to be carried out.

**NSDC Access and Equalities Officer** – Observations relating to Building Regulations.

**No letters of representation have been received.**

Comments of the Business Manager

In assessing this scheme it is considered that the main issues relate to the principle of a new dwelling in this location, the flood risk of the site, the impact on the character and appearance of the area, impact on residential amenity and highway safety concerns.

5 Year Housing Land Supply

The Council's position is that it can demonstrate a 5 year housing supply. Following the allowed appeal at Farnsfield in 2016 where one Inspector concluded we did not have a five year housing supply, in order to address its housing requirement the Council, as it is required to do under the NPPF for both objectively assessed need (OAN) and under the Duty to Cooperate, produced a Strategic Housing Market Assessment (SHMA). The SHMA has produced an OAN for NSDC of 454 dwellings per annum (using 2013 as a base date), which shall be tested through an Examination In Public (EIP) in February this year. The Council has recently defended a Public Inquiry on this basis (outcome yet unknown) and this is the first and only objective assessment of need (OAN) available in NSDC, as required by both the NPPF and the Housing White Paper. The Council is confident – with the support of the other two Authorities and its professional consultants - that the OAN target is appropriate, robust, and defensible figure. Indeed the recent appeal decision (for development in the green belt at Blidworth in August 2017) recently concluded that the Council does indeed have a 5 year supply against its OAN. Whilst this cannot yet attract full weight given previous comments and the advanced stage of the Plan Review it can attract significant weight. Therefore in our view paragraph 14 of the NPPF is not engaged and the policies of the Development Plan are up-to-date for the purpose of decision making.

Principle of Development

The adopted Core Strategy details the settlement hierarchy which will help deliver sustainable growth and development in the District. The Core Strategy outlines the intended delivery of growth within the District including in terms of housing. Spatial Policy 1 sets out a hierarchy which directs development toward the Sub-regional Centre, Service Centres and Principal Villages before confirming at the bottom of the hierarchy that within 'other villages' in the District, development will be considered against the sustainability criteria set out in Spatial Policy 3 (Rural Areas).

## *Location of Development*

The critical consideration in the determination of this application is whether the application site is located within the main built-up area of the village or in the open countryside. This, of course is a matter of judgement as the application site is right at the edge of the settlement and smaller (other villages for the purposes of SP3) no longer have defined settlement boundaries. Historically if one looks to history as a guide, the village envelope for South Muskham set out within the 1999 Local Plan (now defunct), detailed the site to be outside of the envelope.

From site inspection and from aerial photography, the site appears to be a former paddock, which has been absorbed, albeit it without formal planning consent as part of the residential curtilage for the property. The aerial photography shows that the site has in the majority remained free of development and was relatively rural in appearance. A degree of domestication appears to have crept in as shown on the 2013 aerial photo, which is considered to be unauthorised development.

From reviewing historic maps, aerial photos and visiting the site I am of the opinion that the site is considered to be within the open countryside. On this basis, SP3 simply acts as a signpost as it says; *“Development away from main built up areas of villages, in the open countryside, will be strictly controlled and restricted to uses which require a rural setting such as agricultural and forestry...The Allocations & Development Management DPD will set out policies to deal with such applications.”* The principle of the proposed dwelling would be therefore assessed against Policy DM8 of the Allocations and Development Management DPD.

Policy DM8 states allows for agricultural/rural workers dwellings which this is not promoted as being. It also states that *“planning permission will only be granted for new dwellings where they are of exceptional quality or innovative nature of design, reflect the highest standards of architecture, significantly enhance their immediate setting and be sensitive to the defining characteristics of the local area.”*

In accordance with Policy DM8; the proposed dwelling whilst being of contemporary appearance is not considered to be particularly innovative in its design and finish. The dwelling would be constructed of brick and timber cladding with metal roof slopes covered with a number of solar panels. It is also detailed that Structural Insulated Panels (SIPs); in effect pre-constructed insulated walls, may be used as part of the build process. Whilst I accept that the proposed design is different to the traditional red brick host dwelling and those to the east on Great North Road, it is not considered to result in a particularly innovative form of development and no eco credentials for the proposed property have been submitted in support of the scheme. The dwelling could be viewed as acceptable in terms of design, however concern is raised in relation to the proposed scale and massing which is discussed further below.

As the development plan is up to date, the planning Act requires that development is determined in accordance with it unless material considerations indicate otherwise. The NPPF is a material planning consideration but the A&DMP is NPPF compliant and therefore the Development Plan is the primary decision making tool and should carry most weight.

Paragraph 55 of the NPPF states *“to promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities....local planning authorities should avoid new isolated homes in the countryside unless there are special circumstances.”* In relation to the guidance of Paragraph 55; the proposed dwelling is not considered to contribute towards the maintenance of the vitality of the community and it is not considered that any special circumstances exist which would outweigh the harm resulting from

the construction of a further dwelling in this location. Concern is also raised that should this edge of settlement proposal be considered to be acceptable, it could all too easily be repeated elsewhere and lead to unacceptable encroachment into the open countryside. This would be contrary to the aims of sustainable development which is at the heart of the planning system.

In summary the application is judged to be countryside where development is encroachment of the countryside and represents an unsustainable pattern of development contrary to the development plan and the NPPF.

#### Impact on Flood Risk

The application site and all surrounding land within South Muskham is situated within Flood Zone 2 (at medium risk of flooding) according to the Environment Agency flood zone mapping.

The NPPF adopts a sequential approach to flood risk, advising that development should first be directed towards less vulnerable sites within Flood Zone 1. In summary, where these sites are not available new developments will be required to demonstrate that they pass the exception test by demonstrating that the development provides wider sustainability benefits to the community that outweigh flood risk and that, through a site specific FRA, the proposed development can be considered safe for its lifetime and not increase flood risk elsewhere. Both elements of the exception test must be passed for development to be permitted. This is reflected within Core Policy 10 of the Core Strategy and Policy DM5 of the Allocations and Development Management DPD.

The application is accompanied by a Flood Risk Assessment (FRA) which states that notwithstanding the Environment Agency classification of the site as being within Flood Zone 2, 'there is no viable route for flood water to enter the site, due to higher ground levels and therefore the site is concluded to be within Flood Zone 1 and has a low risk of flooding from tidal/fluvial sources and as such the sequential and exception test do not need to be applied'. It is also detailed in relation to a 1 in 1000 flood event that an approximately 0.5m high boundary wall contained within the Garage House site to the north would provide a physical boundary to flooding from the north.

Notwithstanding the above consideration that the site is considered to fall outside of the urban boundary of South Muskham and within an open countryside location, a housing needs assessment was undertaken in South Muskham in 2015. The study not only investigated the actual affordable housing need of the Parish, but also peoples' preferences for market rent level housing and open market housing. In addition, the survey ascertained residents' views with regard to living in the Parish and support for local needs housing to help sustain local communities. The study identified a 'preference' for 11 open market dwellings comprising:-

- 1 x 2 Bed house
- 2 x 3 Bed houses
- 2 x 4 bed houses
- 4 x 2 Bed bungalows
- 1 x 3 Bed bungalow
- 1 x 4 Bed bungalow

Some of this 'preference' could be met through the approval at the November planning committee meeting of the 3 units at Ashleigh (16/01761/OUT); however it is considered that a preference for a 4 bed unit (which this scheme would provide) still exists.

Notwithstanding the findings of the submitted Flood Risk Assessment (FRA), I consider that limited weight can be attached to the reasoning that due to an adjacent boundary wall the site should actually be considered to be within Flood Zone 1. Having discussed this with the Environment Agency they agree with my scepticism of this approach and consider that if the applicant considers the site to actually be within Flood Zone 1 then a formal challenge to the flood modelling for the site should be submitted. To date no challenge has been made and as such the site remains to be considered as being within Flood Zone 2. Under normal circumstances given the sites flood classification the onus would be upon the applicant to undertake a sequential test to demonstrate that no sequentially preferable sites exist elsewhere in the district at a lower risk of flooding. However given the proven identified local preference/need for housing which hasn't yet been met evidenced by the 2015 Midlands Rural Affordable Homes Assessment and the fact that all of the village is washed over by flood zone 2, irrespective of whether we consider the site to be in zone 1 or 2 it could be said to pass the Sequential Test as a local need for South Muskham cannot be sited anywhere else but in the parish of South Muskham.

The FRA concludes that the following mitigation measures would make the proposed dwelling safe from fluvial flooding:

- Finished floor levels set at a minimum of 300mm above external ground levels.
- Flood resistance/resilience measures recommended for minimizing ingress associated with flood water is incorporated into the ground floor building design.
- Due to proximity to the River Trent it is recommended that residents register to receive Environment Agency Flood Warnings/Alerts.
- Residents must be encouraged to complete a personal flood plan.
- Evacuation from the property should be undertaken if advised by the Police, Environment Agency or other emergency service.
- Safe place of refuge to be designed into the new dwelling to provide a high place outside of the flood waters where residents can get to if onset of flooding is too rapid or flood waters are too deep for safe evacuation to occur.
- Surface Water Management – surface water to be managed using sustainable methods, where appropriate. Methods such as rainwater re-use is encouraged and should be considered.

I am mindful that the Sequential Test has been applied at a local level and can be deemed to pass in light of the local need. With regards the Exception Test I conclude that the development can be made safe for its lifetime subject to the above requirements being conditioned. The provision of a house that would meet a wider need for the community would fulfil the requirements of the Exception Test. The proposed development in flood terms is therefore considered to be acceptable.

#### Impact on Character/Visual Amenities

Core Policy 9 of the Core Strategy requires a high standard of design in new development, while Spatial Policy 3 seeks to protect the countryside, enhance landscapes and ensure that the scale of new development is appropriate and avoids detrimental impacts on the character of the area.

Policy DM5 of the NSDC DPD states that proposals should respect local distinctiveness and character of built form should be reflected in the scale, form, mass, layout design and materials of new development. The NPPF, a material consideration states that good design is a key aspect of sustainable development and new development should be visually attractive as a result of good architecture and appropriate landscaping and that development of poor design should be refused.

The site is located within the Trent Washlands Policy Zone (TW PZ 11): Cromwell, North & South Muskham, Kelham, Averham Staythorpe and Rolleston Village Farmlands in accordance with the Landscape Character Assessment SPD 2013. The assessment details that the characteristic visual features of the area comprise a largely flat, large scale intensive arable landscape, with nucleated villages with red brick and pantile roofed buildings. The area is defined as having a moderate sense of place with a moderate degree of visibility leading to a moderate landscape sensitivity. The appraisal highlights the landscape actions for the area in relation to built features to be; to conserve the character and setting of village settlements and to conserve the rural character of the landscape by concentrating new development around settlements. Whilst it is accepted that the development site is on the edge of the settlement, the scale and mass of the proposed dwelling is not considered to conserve the rural character of the landscape and as such the proposal would fail to accord with the requirements of Core Policy 13 of the Core Strategy.

The proposal would result in the construction of a detached 4 bed dwelling which would have a footprint of approximately 215m<sup>2</sup> and overall floor space of approximately 420m<sup>2</sup>. The gabled frontage would be approximately 22m in width, with a depth of 11.5m and an approximate height of 8m. It is proposed to construct the dwelling from a mix of brick and timber cladding with a grey standing seam metal roof. The dwelling would appear as a contemporary piece of modern architecture when viewed from the surrounding area given the design and proposed materials and whilst no objection is raised to the proposed design, concern is raised in relation to the scale and mass of the proposed dwelling in a countryside context.

Properties within the vicinity are a mix of detached and semi-detached and primarily two storey in height. Given the location of the proposed development site, alongside Great North Road, concern is raised regarding the prominence of the dwelling, in particular of the front elevation as vehicles travel north. It is considered that the proposed elongated gabled frontage exacerbates the mass of the proposed development, to the detriment of the character and appearance of the area. This is particularly the case as the site is at the edge of a small village where density and scale should be reduced (not increased) as one transitions into the open countryside. Consequently the scale and mass of the proposed dwelling is as such considered to be out of keeping with the character of the area and would therefore fail to accord with the requirements of Core Policies 9 & 13, Spatial Policy 3 of the Core Strategy and Policy DM5 of the DPD.

#### Impact on Residential Amenity

Policy DM5 states that the layout of development within sites and separation distances from neighbouring development should be sufficient to ensure that neither suffers from an unacceptable reduction in amenity including overbearing impacts, loss of light and privacy. In the context of the current application, consideration of amenity requires deliberation on the impacts of the development on the existing neighbouring properties as well as the proposed occupiers of the development proposed.

Dealing firstly with neighbouring occupiers, the proposed property would be approximately 27.5m to the south of Garage House and separated from dwellings to the east by Great North Road. It is therefore not considered likely that the proposed dwelling would result in any loss of

neighbouring amenity by way of overbearing or loss of light. Balconies are proposed on the front (southern) elevation, however given the degree of separation to neighbouring dwellings and the orientation of the proposed balconies it is not considered likely that direct or unacceptable overlooking would occur.

In terms of amenity for future occupiers of the dwelling; an extensive garden area is proposed to the front of the property which is considered to result in sufficient private amenity space for any future occupiers. Overall I have identified no detrimental amenity impacts which would warrant a resistance of the proposal on grounds of impact on residential amenity. The proposal is therefore deemed to comply with the relevant amenity criterion within Policy DM5.

#### Impact on Highway Safety

Spatial Policy 7 of the Core Strategy seeks to ensure that vehicular traffic generated does not create parking or traffic problems. Policy DM5 of the DPD requires the provision of safe access to new development and appropriate parking provision.

Nottinghamshire County Highways have raised concerns regarding the access for the proposed dwelling. The comments have been passed to the applicant who has stated that the access will be revised to accord with the comments raised by colleagues within the Highways Authority. Subject to the receipt of revised plans (yet to be received) and the imposition of a number of conditions or reworded conditions to reflect the required amendments, it is not considered that the proposed development would result in any highway safety issues and would comply with SP7 and Policy DM5 of the Core Strategy and DPD respectively.

#### Other Matters

As previously mentioned the applicants have domesticated the application site by using this as part of their garden without the necessary planning permission. Should Members be minded to refuse the application as recommended, consideration should be given to taking formal enforcement action to require the cessation of the use of the former paddock area as an extended/enlarged garden with the removal of all domestic outbuildings and paraphernalia from the site. Officers consider this unauthorised use of land to represent encroachment into the countryside which is unsustainable and a form of development could set a harmful precedent for other sites. A second recommendation is therefore included below.

#### Planning Balance and Overall Conclusion

It is the Council's submission that it can demonstrate a 5 year housing supply against a robust OAN and that for the purposes of decision making the Development Plan is up to date.

It has been concluded that whilst lying within the parish of South Muskham, the application site, as a matter of judgement does not lie within the main built up part of the settlement and consequently is within the countryside for the purposes of planning policy decision making. The proposed dwelling therefore would result in urban sprawl into open countryside, to the detriment of the character and appearance of the area. The principle of development is therefore considered to be unacceptable in sustainability terms and contrary to the Development Plan.

It has also been concluded that whilst the proposed dwelling is of a contemporary design the significant scale and mass of the proposed dwelling would be out of keeping with neighbouring units to the detriment of the character and appearance of the area and the development would fail to respond to its rural surroundings.

It has been accepted that there is a yet unmet identified preference/need for, amongst others, a 4 bedroom house in South Muskham as evidenced through a local housing needs survey. Taking this into account, it is concluded that given all of South Muskham is washed over by Flood Zone 2 that there are no sequentially preferable sites available that would be at less risk of flooding that could meet the local need and that the Exception Test has been passed.

However it is not considered that the merits of providing one additional dwelling, even where it meets an identified preference or need, would outweigh the concerns raised in relation to an unsustainable development in an open countryside location and the provision of a dwelling of a scale and mass out of keeping with the surrounding area.

I therefore conclude that the application is unacceptable, contrary to the Development Plan and the NPPF and should be refused accordingly.

**RECOMMENDATION that:**

- 1) Full planning permission is refused for the following reasons; and**
- 2) Formal action is considered (such as the serving of an Enforcement Notice) to require cessation of the use of the land for domestic purposes such that it reverts back to paddock land.**

01

In the opinion of the Local Planning Authority the application site lies outside of the main built up part of South Muskham and therefore falls to be assessed as development in the open countryside. Both national and local planning policy restricts new development in the countryside. Spatial Policy 3 (Rural Areas) of the Core Strategy and Policy DM8 (Development in the Open Countryside) of the Allocations and Development Management DPD seek to strictly control development in the countryside and limits this to a number of exceptions. This application does not meet any of the exceptions. This proposal therefore represents an unsustainable form of development and encroachment into the open countryside where there is no justification. The proposal is therefore contrary to Spatial Policy 3 (Rural Areas) of the adopted Newark and Sherwood Core Strategy and Policy DM8 (Development in the Open Countryside) of the adopted Allocations and Development Management DPD which together form the Development Plan as well as being contrary to the NPPF which is a material consideration.

02

The proposed dwelling by virtue of its massing and scale particularly when viewed from the south is considered to result in an overly prominent form of development which fails to assimilate into its rural surroundings to the detriment of the character and appearance of the surrounding area and wider landscape. The proposal is therefore considered to be contrary to Spatial Policy 3 (Rural Areas) and Core Policy 9 (Sustainable Design) and Core Policy 13 (Landscape Character) of the adopted Core Strategy and Policy DM5 of the adopted Allocations & Development Management DPD which together form the Development Plan as well as national guidance contained within the NPPF, a material planning consideration.

## **Notes to Applicant**

01

You are advised that as of 1st December 2011, the Newark and Sherwood Community Infrastructure Levy (CIL) Charging Schedule came into effect. Whilst the above application has been refused by the Local Planning Authority you are advised that CIL applies to all planning permissions granted on or after this date. Thus any successful appeal against this decision may therefore be subject to CIL (depending on the location and type of development proposed). Full details are available on the Council's website [www.newark-sherwooddc.gov.uk/cil/](http://www.newark-sherwooddc.gov.uk/cil/)

02

The application is clearly contrary to the Development Plan and other material planning considerations, as detailed in the above reason(s) for refusal. Whilst the applicant has engaged with the District Planning Authority at pre-application stage our advice has been consistent from the outset. Working positively and proactively with the applicants would not have afforded the opportunity to overcome these problems, giving a false sense of hope and potentially incurring the applicants further unnecessary time and/or expense.

### **BACKGROUND PAPERS**

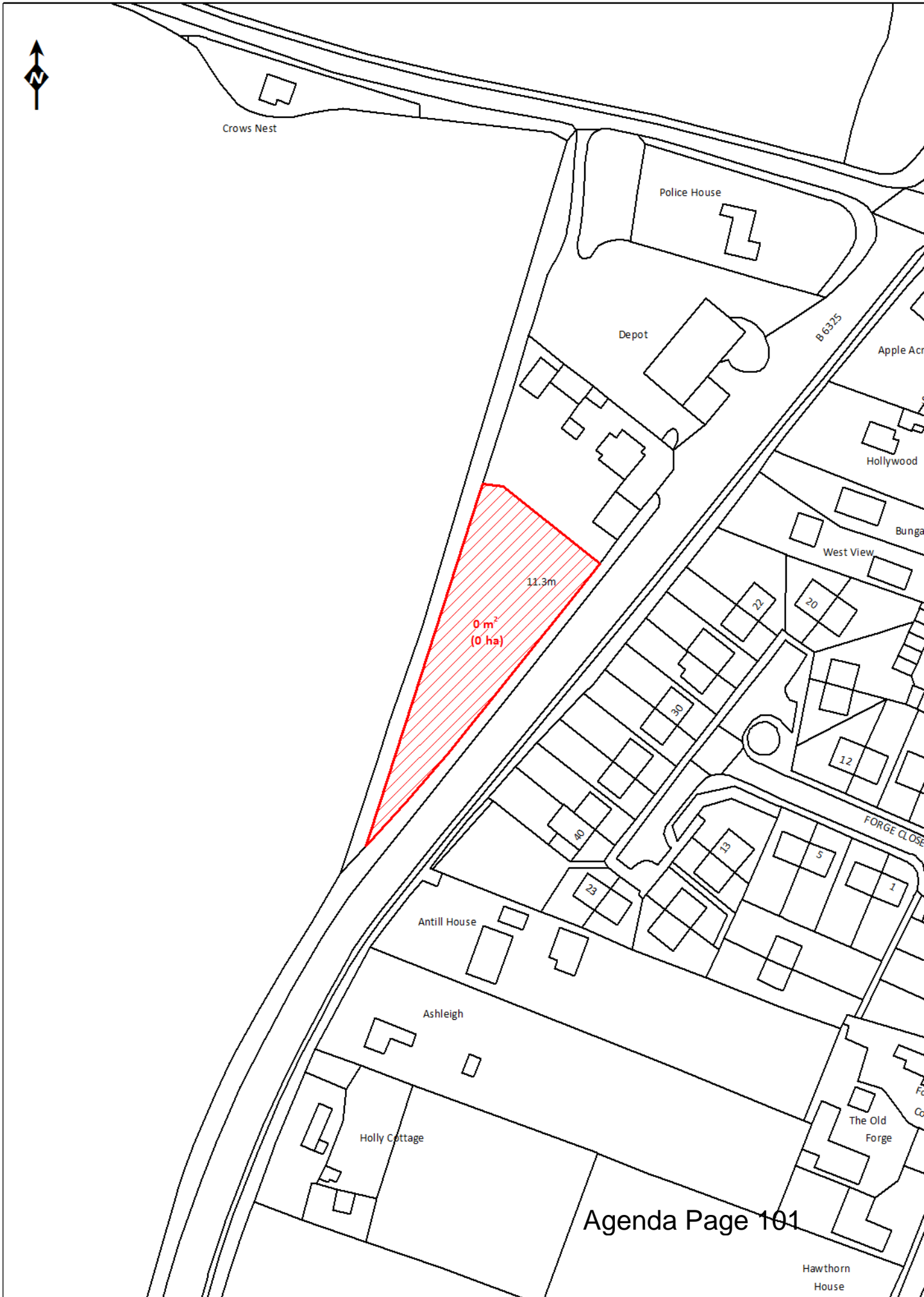
Application case file.

For further information, please contact James Mountain on ext 5841.

All submission documents relating to this planning application can be found on the following website [www.newark-sherwooddc.gov.uk](http://www.newark-sherwooddc.gov.uk).

**Kirsty Cole**  
**Deputy Chief Executive**





# Agenda Item 11

PLANNING COMMITTEE – 16 JANUARY 2018

AGENDA ITEM NO. 11

<b>Application No:</b>	<b>17/01300/FUL</b>	
<b>Proposal:</b>	<b>Demolition of the prefabricated concrete garage and the division of the existing residential property to form an additional dwelling in the existing footprint.</b>	
<b>Location:</b>	<b>22 High Street, Sutton on Trent, NG23 6QA</b>	
<b>Applicant:</b>	<b>Mr Jonathan Hart</b>	
<b>Registered:</b>	<b>10.08.2017</b>	<b>Target Date: 05.10.2017</b>

This application is being presented to the Planning Committee in line with the Council's Scheme of Delegation as Sutton on Trent Parish Council has objected to the application which differs to the officer recommendation.

## Background

This application was deferred from 5 December 2017 Planning Committee Meeting in order that Members could visit the site prior to considering the application. There were no late items relating to this application and none have been received since. The report that therefore follows remains as previously published.

## The Site

The application site relates to a traditional two storey dwelling located on the south side of High Street, within the main built up area of Sutton on Trent and the conservation area. The application dwelling has an L-shaped layout and is positioned hard on the boundary with the highway. Vehicular access to the site comes via a shared driveway, immediately to the east of the site with off street parking and a detached garage located at the rear of the site.

The site falls within Flood Zone 2.

## Relevant Planning History

08/00025/FUL - Use of ground floor shop (Class A1) as one-bedroom flat (Class C3) – Approved 18.02.2008.

00/50756/FUL – Change of use to hot food takeaway – Refused 15.06.2000.

58781134 - Use of land for storage of building material – Refused 14.11.1978.

58891216 – Erect three two-bedroom starter homes - Refused 13.02.1990.

## The Proposal

The proposal seeks planning permission for the sub-division of the application dwelling into 2 No. Independent dwellings (one 3-bedroom dwelling and one 2-bedroom dwelling).

The vast majority of the proposed conversion works would be internal however a new opening would be formed on the rear elevation at ground floor level (from the living/dining room) in order to give access to the associated rear amenity space. An additional window would be positioned on the rear elevation at first floor level to serve a bedroom.

The existing detached garage at the site would be removed as part of the proposal. Following negotiations with the case officer, additional plans have been submitted which clearly show the 3 no. off street parking spaces that would be associated to the proposed dwellings.

The site has been identified to be located within EA Flood Zone 2 and the application is supported by a Flood Risk Assessment (FRA).

### Public Advertisement Procedure

Occupiers of four properties have been individually notified by letter. A site notice has also been displayed near to the site and an advert has been placed in the local press.

### Planning Policy Framework

#### The Development Plan

#### **Newark and Sherwood Core Strategy DPD (adopted March 2011)**

Spatial Policy 1: Settlement Hierarchy

Spatial Policy 2: Spatial Distribution of Growth

Spatial Policy 3: Rural Areas

Spatial Policy 7: Sustainable Transport

Core Policy 9: Sustainable Design

Core Policy 14: Historic Environment

#### **Allocations & Development Management DPD**

Policy DM1 – Development within Settlements Central to Delivering the Spatial Strategy

Policy DM5 – Design

Policy DM9 – Protecting and Enhancing the Historic Environment

Policy DM12 – Presumption in Favour of Sustainable Development

#### Other Material Planning Considerations

- National Planning Policy Framework 2012
- Planning Practice Guidance 2014
- Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990

#### Consultations

**Sutton on Trent Parish Council** – Objects to the proposal to this application because of the lack of off road parking and the shared entrance.

## **NCC Highways Authority –**

### **Latest comments received 17 November 2017**

Following receipt of the additional layout plan no objection is raised to the scheme providing 'rights of access' can be achieved for both properties.

### **Original comments received on the 31 August 2017**

'The loss of the garage with no apparent replacement parking provision, together with the subdivision to create 2 dwellings raises the potential for on-street parking to occur; possibly involving say 3-4 cars. For this reason, I would recommend refusal on the grounds that the proposed development would result in the increased danger and inconvenience to other road users due to the likelihood of vehicles being parked on the public highway.'

**Trent Valley Internal Drainage Board –** No objections.

**NSDC Access –** No Observations

### **NSDC Conservation**

#### Legal and Policy Considerations

Section 72 requires the LPA to pay special attention to the desirability of preserving or enhancing the character and appearance of the CA. In this context, the objective of preservation is to cause no harm. The courts have said that these statutory requirements operate as a paramount consideration, 'the first consideration for a decision maker'.

Policies CP14 and DM9 of the Council's LDF DPDs, amongst other things, seek to protect the historic environment and ensure that heritage assets are managed in a way that best sustains their significance. The importance of considering the impact of new development on the significance of designated heritage assets, furthermore, is expressed in section 12 of the National Planning Policy Framework (NPPF).

Paragraph 132 of the NPPF, for example, advises that the significance of designated heritage assets can be harmed or lost through alterations or development within their setting. Such harm or loss to significance requires clear and convincing justification. The NPPF also makes it clear that protecting and enhancing the historic environment is sustainable development (paragraph 7).

Additional advice on considering development within the historic environment is contained within the Historic England Good Practice Advice Notes (notably GPA2 and GPA3). In addition, 'Historic England Advice Note 2: making changes to heritage assets' advises that it would not normally be good practice for new work to dominate the original asset or its setting in either scale, material or as a result of its siting. Assessment of an asset's significance and its relationship to its setting will usually suggest the forms of development that might be appropriate. The junction between new development and the historic environment needs particular attention, both for its impact on the significance of the existing asset and the impact on the contribution of its setting.

### **Significance of Heritage Asset(s)**

22 High Street is located in the Sutton on Trent Conservation Area. The property retains its traditional detailing, as a 2 storey structure with a single storey extension. There have been

several different uses in the property, including a bakery and retail, before conversion to a residential dwelling.

### **Assessment of Proposal**

Conservation does not object to the proposal. There are some original bakery ovens that are still in situ in the property and they are to remain as part of the subdivision. The division of the property will not impact on the character or streetscene of the conservation area and there will be a minor improvement through the removal of the unsightly modern garage which will be replaced with flagstones and flower beds.

In this context, the proposal is not considered to cause harm to the character of the conservation area. The proposal therefore is in accordance with the objective of preservation set out under sections 72, part II of the 1990 Listed Building and Conservation Areas Act, and complies with heritage policies and advice contained within the Council's LDF DPDs and section 12 of the NPPF.

### **Representations have been received from 4 local residents/interested parties which can be summarised as follows:**

- The site plan appears to differ from the size and shape of the site as registered with land registry.
- Questions raised over the legality and right of access over the pathway to the west of the application site as well as concerns over the potential increase in wear and tear of the pathway.
- Concerned over the potential for vehicles parking on the shared drive, blocking access to the adjacent property that shares the drive.

### Comments of the Business Manager

#### *Principle*

The National Planning Policy Framework promotes the principle of a presumption in favour of sustainable development and recognises that it is a duty under the Planning Acts for planning applications to be determined in accordance with the development plan. Where proposals accord with the Development Plan they will be approved without delay unless material considerations indicate otherwise. The NPPF also refers to the presumption in favour of sustainable development being at the heart of the NPPF and sees sustainable development as a golden thread running through both plan making and decision taking. This is confirmed at the development plan level under Policy DM12 of the Allocations and Development Management DPD.

The site is located within the main built up area of Sutton on Trent which is defined as a Principal village within Spatial Policy 1 of the Core Strategy and where the provision of housing is sought to secure a sustainable community. As such, there is no objection to the principle of the development at the site.

#### *Heritage*

The NPPF states that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. Core Policy 14 and Policy DM9 of the DPD require development proposals to preserve and enhance the

character, appearance and setting of heritage assets.

I note that the conservation section raise no objection to the scheme and in also considering that the only external alterations to the application dwelling would be minor in nature and at the rear of the building, it is considered that the proposal would not result in any detrimental impact or harm to the character and appearance of the site or wider conservation area. Furthermore, the replacement of the flat roof garage at the site with landscaping and flagstone surfacing would be advantageous in terms of removing built form that does not relate positively to the conservation area.

### *Neighbouring Amenity*

The NPPF seeks to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings. Policy DM5 of the DPD states that development proposals should ensure no unacceptable reduction in amenity including overbearing impacts and loss of privacy upon neighbouring development.

As the proposed scheme does not involve any increase in height or footprint of the application building, I am satisfied that the proposed development would not result in any material overbearing or overshadowing impact on neighbouring properties.

In terms of any potential overlooking, I am mindful of the additional window on the rear elevation at first floor level, however it is considered that there is sufficient separation distance (circa 16m) to the closest neighbouring property to the rear of the site, No. 24 High Street, for this element of the proposal to not give rise to any material overlooking issues.

While the proposed subdivision of the application dwelling would result in a reduced level of private garden area, with the proposed removal of the garage it is considered that on balance the site would still retain a satisfactory, albeit modest, level of private amenity space to serve both of the proposed dwellings (48m<sup>2</sup> to serve the 3 bedroom and 28m<sup>2</sup> to serve the 2 bedroom).

### *Highway Safety*

Spatial Policy 7 of the Core Strategy seeks to ensure that vehicular traffic generated does not create parking or traffic problems. Policy DM5 of the DPD requires the provision of safe access to new development and appropriate parking provision.

The concerns from the Parish Council in relation to off street parking are noted however I am mindful that the Highway Authority have not raised an objection on highway safety grounds following the submission of additional layout plan showing 3 off street spaces to serve the development.

In taking into account that the vehicular access to the site is via the existing shared driveway at present, which would remain unaltered by the proposal as well as the 3 No. off street parking spaces shown to be achieved on the layout plan, I am satisfied that the proposal would not result in any material highway concerns over and above the existing situation.

### *Flooding*

Policy DM5 of the DPD states that the Council will aim to steer new development away from areas

at highest risk of flooding. In addition Core Policy 9 requires development proposals to include measures to proactively manage surface water wherever possible.

The NPPF states within para 100 that inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk, but where development necessary, making it safe without increasing flood risk elsewhere.

Para 104 of the NPPF states that applications for minor developments and changes of use should not be subject to the Sequential or Exception Tests but should still meet the requirements for site specific flood risk assessments.

I note that the Environment Agency standing advice for vulnerable development within flood zone 2 requires development proposals to follow advice on surface water management, access and evacuation and floor levels.

In regard to surface water management, I am mindful that there are no external extensions to the application building as part of the proposal nor any increased areas of hard surfacing therefore it is considered that surface water run-off would not be increased by the proposal. I also note that the FRA has stated that the floor levels of the application dwelling will remain unaltered. As such it is considered that the proposal would accord with the standing advice from the Environment Agency

#### *Other Matters*

In regard to the comments received by local residents, I note the concern raised over the difference between the submitted site plan and a land registry plan. However, while I have not had a sight of the land registry plan for the site, the applicant has submitted a red line site location plan which clearly illustrates the boundaries of the site and includes an area of the shared access serving the site. The applicant has also completed the relevant Certificate and served notice on the adjacent neighbour. Notwithstanding this any dispute over the ownership of land within the site would fall outside of the remit of the planning process and would be a private legal matter between the parties involved.

In terms of the footpath to the west of the site, this is not included within the red line site plan and while it is understood that this is used as pedestrian access to the site (there is an existing access gate into the application site from this footpath), it is not the only access into the site and would not be used by the proposed 3 bedroom dwelling. I am of the view that the rights to use this footpath as well as potential wear and tear would also be a civil matter between all of the parties using the footpath.

The concerns over vehicles blocking the shared drive are noted. However, as discussed within the Highway safety section of this report, it is considered that the site would retain adequate off street parking space and that any vehicles utilising these parking spaces would not unduly impact on access and egress for other vehicles using the shared drive.

#### *Conclusion*

This scheme would deliver housing in a sustainable settlement and contribute, albeit very modestly, to the Council's 5 year + housing supply ~~and~~ The proposal would not harm the historical significance of the application building or the character and appearance of wider conservation area, nor would it result in any material impact on highway safety or the residential amenity of neighbouring properties. The proposed development would also not result in any significant

increase in flood risk at the site or neighbouring sites in accordance with standing advice. Accordingly it is recommended that planning permission be granted.

## **RECOMMENDATION**

**That full planning permission is approved subject to the following conditions:**

### **Conditions**

01

The development hereby permitted shall not begin later than three years from the date of this permission.

Reason: To comply with the requirements of Section 51 of the Planning and Compulsory Purchase Act 2004.

02

The development hereby permitted shall not be carried out except in complete accordance with the following approved plans Ref.

Revised site location plan Ref. 302 P 01 B  
Amended Existing Floor Plans Ref. 302 EX 02 Rev A  
Existing Elevations Ref. 302 EX 03  
Proposed Floor Plans Ref. 302 P 02  
Proposed Elevations Ref. 302 P 03  
Additional Car Parking Layout Ref. 302 P 02 Rev A

unless otherwise agreed in writing by the Local Planning Authority through the approval of a non-material amendment to the permission.

Reason: For the avoidance of doubt and in order to define the permission.

03

Prior to the first occupation of the dwellings hereby approved, the existing garage shall be removed from the site and the new parking spaces shall be created as shown on the approved plan Ref. 302 P 02 Rev A.

Reason: In the interests of Highway safety.

### **Notes to Applicant**

01

The applicant is advised that all planning permissions granted on or after the 1<sup>st</sup> December 2011 may be subject to the Community Infrastructure Levy (CIL). Full details of CIL are available on the Council's website at [www.newark-sherwooddc.gov.uk/cil/](http://www.newark-sherwooddc.gov.uk/cil/)

The proposed development has been assessed and it is the Council's view that CIL is not payable on the development given that there is no net additional increase of floorspace as a result of the development.



02

The application as submitted is acceptable. In granting permission without unnecessary delay the District Planning Authority is implicitly working positively and proactively with the applicant. This is fully in accordance with the Town and Country Planning (Development Management Procedure) Order 2010 (as amended).

Background Papers

Application case file.

For further information, please contact Gareth Elliott on 01636 655836.

All submission documents relating to this planning application can be found on the following website [www.newark-sherwooddc.gov.uk](http://www.newark-sherwooddc.gov.uk).

**K.H. Cole**  
**Deputy Chief Executive**



<b>Application No:</b>	<b>17/01987/FUL</b>
<b>Proposal:</b>	<b>Householder application for proposed demolition of existing rear porch, two-storey side &amp; part single-storey front extension; refurbishment of existing dormer windows; replacement external doors and windows throughout; replacement of existing 4ft fence on southern boundary with 6ft fence and removal of existing gated access</b>
<b>Location:</b>	<b>Rose Cottage , Washtub Lane, South Scarle, NG23 7JN</b>
<b>Applicant:</b>	<b>Mr &amp; Mrs Faihurst</b>
<b>Registered:</b>	<b>30 October 2017</b>
	<b>Target Date: 25 December 2017</b>
	<b>Extension of Time Agreed until 19 January 2018</b>

**This application is presented to the Planning Committee for determination as it has been referred by Councillor D. Clarke at the request of the local residents on amenity and highways grounds.**

#### Description of Site and Surrounding Area

The application property is a detached red brick two storey dwelling situated on a residential road within South Scarle. The property is set back from the roadside with a gravel front garden with grass to the side and rear of the property. The dwelling is located abutting the northernmost boundary of the site and as such has a U shaped garden. The property has two access points off Washtub Lane, one to the east serving the front of the property and one to the south which is a redundant access point.

The current hostdwelling is approx. 7.6 m from the common boundary with the property to the south-east, and meets the common boundary with the property directly to the north. The rear elevation is approx. 14 m from the rear boundary and the side elevation is approx. 19 m from the side boundary and existing access point. The front elevation is approx. 14 m from the front boundary fencing.

Properties in the vicinity are of varying size and design.

Washtub Lane is a horseshoe shape to the east of Main Street and serves multiple properties. The track is narrow and all properties have the provision for off street parking.

#### Site History

01/01252/OUT - Construction of a detached two bedroom home (dormer bungalow) – Refused 10.09.2001.

96/51553/OUT - Erect two semi-detached starter homes – Refused 05.02.1997.

## Description of Proposal

Planning permission is sought for the demolition of the existing rear porch and the construction of a two-storey side & part single-storey front extension; refurbishment of the existing dormer windows; replacement of external doors and windows throughout; replacement of the existing 4ft fence on the southern boundary with 6ft fence and removal of the existing gated access.

The hostdwelling is approx. 7.8 m wide and 8.9 m deep with an eaves height of 3.9 m and ridge height of approx. 6.2 m.

The proposal seeks to extend the front elevation of the hostdwelling with a mono-pitch lean to extension of approx. 2.3 m depth and 7.5 m width. The ground floor extension will be approx. 0.3 m from the boundary fence with the property to the north. The lean to is proposed to be 3.5 m to the ridge and 2.4 m to the eaves with an approx. 3.7 m high open timber gable over the front door.

The two storey side extension is proposed to be approx. 5.8 m wide and span the entire depth of the hostdwelling and front single storey extension at approx. 11.2 m; at first floor the extension will be 8.8 m deep and 5.8 m wide. The extension is proposed to have a 6.2 m ridge height and 3.9 m eaves height. The front elevation of the first floor extension is proposed to have an eaves dormer in the style of those present on the hostdwelling.

The rear porch to be demolished is approx. 1.7m x 3 m in diameter and has a lean to ridge height of approx. 2.5 m and eaves of 1.8 m.

The existing 4ft boundary fence to the southern boundary of the property is proposed to be replaced with a 6ft boundary fence with the existing gated access to be removed from this section of the boundary.

The existing 6ft boundary fence is proposed to be retained on the north common boundary.

### *Fenestration*

On the front (east) elevation the proposal seeks to introduce two additional eaves dormers at first floor, on the side extension the ground floor front elevation is proposed to have a double width garage door. At ground floor the windows on the hostdwelling are to remain with one being reduced in size. The front door is proposed to be replaced with a timber door with two sidelights.

On the rear (west) elevation the rear porch is proposed to be demolished and a window is proposed to be inserted in its place. On the main body of the extension two windows are proposed at both first floor and ground floor of which are in a similar style and size as those present on the hostdwelling.

On the south side elevation two small obscurely glazed windows are proposed at first floor, at ground floor two sets of bi-folding doors are proposed to be positioned towards the rear of the dwelling.

No additional windows are proposed on the north side elevation.

## *Materials*

Materials proposed are slate roof tiles and bricks to match the hostdwelling. Windows and doors are proposed to be timber in keeping with the existing. Corbel brick eaves detailing is proposed to match the hostdwelling. Timber fascia eaves details are also proposed to match the existing property.

## *Floorspace/CIL*

The ground floor portion of the proposal seeks to create 74 m<sup>2</sup> net additional floor-space and the first floor portion creates a net addition of 45m<sup>2</sup> - the proposal also includes the demolition of the existing ground floor rear porch which is approx. 5 m<sup>2</sup>. Overall there will be a net additional floor space of 114 m<sup>2</sup>.

## **Departure/Public Advertisement Procedure**

The occupiers of 11 properties have been individually notified by letter.

## **Planning Policy Framework**

### **The Development Plan**

*Newark and Sherwood Core Strategy DPD (adopted March 2011)*

Core Policy 9: Sustainable Design

*Allocations & Development Management DPD*

Policies relevant to this application -

Policy DM5: Design

Policy DM6: Householder Development

### **Other Material Planning Considerations**

- National Planning Policy Framework 2012
- Planning Practice Guidance 2014
- Householder Development SPD 2014

## **Consultations**

**South Scarle Parish Council** – No comments have been received to date.

**NCC Highways** – “The proposed development will have negligible impact on the public highway. Therefore no objections are raised.”

**Local Residents** - Comments have been received from local residents. On the initial proposal 5 comments were received in objection and 7 were received in support of the proposal. Revised plans were submitted and the local people were offered a second opportunity to comment on the plans. 3 letters were received reiterating comments in objection. Comments in objection include:

- Overbearing impact upon neighbouring properties
- Loss of neighbouring amenity
- Proposal is the same as an application for a new dwelling
- Detrimental impact upon the character of the area

- Impact upon the highway due to more cars anticipated
- Loss of a view
- Loss of light
- Pressure on existing village services

### Comments of the Business Manager

#### *Principle of Development*

Householder developments are accepted in principle subject to an assessment of numerous criteria outlined in Policy DM6. These criteria include the provision that the proposal should respect the character of the surrounding area. The overall shape, size and position of an extension must not dominate the existing house or the character of the surrounding area. Policy DM5 accepts development providing that it does not unacceptably reduce amenity in terms of overbearing impacts, loss of light and privacy.

#### *Impact on Character of Area*

Policy DM6 of the DPD states that planning permission will be granted for householder development provided that the proposal reflects the character of the area and existing dwelling in terms of design and materials.

The hostdwelling is sited along Washtub Lane, a residential road, and is set back from the roadside with a gravel front garden with grass to the side and rear of the property. The dwelling is located abutting the northernmost boundary of the site and as such has a U shaped garden. The property has two access points off Washtub Lane, one to the east serving the front of the property and one to the south which is a redundant access point. It is noted that the property is approx. 25 m south of the South Scarle Conservation Area, however, given the degree of separation and location of the dwelling on Washtub Lane it is not considered that the host dwelling would have any impact upon the conservation area that would need to be considered within this appraisal.

It is acknowledged that the properties on Washtub Lane are of varying character and appearance, with a more modern development opposite the hostdwelling to the east that are more uniform in style.

The host dwelling is set approximately 12 m back from the highway and at present, the boundary abutting the highway is treated with a 4ft (approx.) high boundary fence. Permission is being sought to remove the access point that lies to the south of the property and given the dwelling has an established access point to the east which serves the driveway, the removal of this secondary access point is not considered to impact the character or appearance of the area.

With regards to the extensions proposed to the host dwelling, the proposed development would result in the re-modelling of the current dwelling which is considered to be of no special architectural merit and has been unsympathetically albeit functionally extended previously. The proposed development would introduce a relatively symmetrical frontage with eaves dormer windows replicated on the side extension to match the hostdwelling. The extension is proposed to be constructed in materials to match the existing property and this is considered to be acceptable and will ensure the extension assimilates well with the host. The extension also seeks to introduce an integrated double garage to the property with a large boarded garage door.

The property is not aligned with other neighbouring dwellings and set back from the roadside towards the northernmost boundary giving the dwelling a U shaped garden area. As such most of the dwelling is visible within the public realm from the side and front boundaries. The neighbouring dwelling to the south-east sits within the plot for the hostdwelling but is bound by an approx. 4 ft boundary fence and dense vegetation and trees. The proposal seeks to increase the southern boundary of the site to a 6ft fence and this is considered to be acceptable.

I am mindful that the proposal seeks to substantially extend the footprint of the host-dwelling. I note that the host-dwelling has a substantial curtilage and in my view the extension to the dwelling would still retain a reasonable amount of private amenity space commensurate to the size of the dwelling. I acknowledge that the Householder Development SPD advises that additions must respect the hostdwelling so that they are balanced with the scale and proportions, I note that the SPD also advises that additions are acceptable where they are well related in characteristics of the application site. Given the aforementioned design complements the front elevation of the property I am satisfied that the well related characteristic of the extension would negate the harm of an extension and therefore conclude that the extension would not present as an incongruous addition to the hostdwelling.

The SPD advises that additions must have a roof style and pitch which is sympathetic to that of the hostdwelling; I note that the proposal is to tie in with the ridge and eaves of the hostdwelling. I note that the applicant has revised the proposal in line with previous concerns and has removed the front protruding gable element which no doubt reduces the bulk of the addition. In this particular instance I do not consider it necessary to reduce the eaves and ridge height. The Council's SPD states additions should be successfully integrated with the host dwelling and surrounding area, and should also be balanced with the host dwelling and its proportions (para 7.4). I consider that even though the height hasn't been reduced, it would not unduly unbalance the overall appearance of the resulting dwelling.

Given the amendments to the proposal and lack of uniformity within the surrounding area I am of the view that the side extension will appear sympathetic to the design of the property. It is considered that the proposed extensions are proportionate to the main dwelling and garden plot and would not be incongruous additions and as such the proposal is not considered to have a detrimental impact upon the visual amenity of the original dwelling, or on the surrounding street scene.

It is accepted that the form and appearance of the proposed extensions results in a markedly different appearance to the existing building, with the front road facing design increasing by 5.8 m and including a large double garage. The altered dwelling will appear bulkier, with a matching pitched roof; however it is acknowledged that the proposal seeks to improve the hostdwelling and has been designed in keeping with the properties original features. The proposal incorporates the refurbishment and replacement of existing windows with new timber windows which is considered to be a welcomed feature to the property.

I am conscious that the proposed extensions will result in a significant increase in floor space, 114 m<sup>2</sup>, however it is acknowledged that this includes the demolition of the existing rear porch. I am aware that the dwelling will therefore appear substantially larger than existing. However I note that the surrounding area is characterised with properties of varying sized and styles set within varying plots sizes and therefore I am of the view that the proposal is not significantly out of keeping with the local area and that the plot can accommodate such an increase in footprint without undue harm to the character and appearance of the area.

In conclusion it is considered that the proposed extended dwelling would overall be seen as an architectural improvement. The proposed development would result in a dwelling with a more cohesive appearance of some architectural merit which is considered to be an improvement on the currently unsympathetically altered property. Whilst I acknowledge that the proposal is for a significant extension to the dwelling and would be prominent within the street scene, the overall appearance of the extension is not, in my view, overbearing upon the character of the dwelling nor the street scene, particularly given the design to complement and balance the frontage of the host dwelling. It is not considered that the proposed development would detract from the character of the area and would in my opinion accord with policies SP9, DM5, DM6 and DM9 of the Development Plan.

### *Impact upon Amenity*

The NPPF seeks to ensure a good standard of amenity for all existing and future occupants of land and buildings. Policy DM6 of the DPD states planning permission will be granted for householder development provided it would not adversely affect the amenities of the adjoining premises, in terms of loss of privacy or overshadowing.

In addition, the Householder Development Supplementary Planning Document (SPD) gives further advice in relation to the assessment of neighbour and occupier amenity. The SPD advises that when considering the potential for overbearing and overshadowing, regard should be given to the height and depth of the proposal, the orientation of the proposed addition and the positioning of the proposal in relation to the principal windows of habitable rooms in neighbouring properties as well as the level of separation from neighbouring properties.

The Council's SPD states that for two storey additions "*it may be necessary to apply the 45 degree approach to assess whether the proposed depth will lead to unacceptable neighbour impact*" (para 8.4). Given that the two storey addition is on the side elevation that is separated from neighbouring dwellings and approx. 2 m from the common boundary with the property to the South-East and is screened by the approx. 6 ft boundary treatment I do not anticipate that any issues will occur as a result of this extension with regards to overshadowing.

There are four additional windows proposed on the west rear elevation however I consider these to be appropriate and would not harm neighbour amenity from adverse overlooking given the separation distances and positioning of the property approximately 21 m from the property to the rear (Blaven). The rear boundary is also treated with an approximately 4ft high boundary fence of which will provide adequate ground level screening.

Two additional eaves dormer windows are proposed on the east facing front elevation as well as sidelights either side of the front door. The closest property across the highway is in excess of 19 m from the front elevation of the host dwelling and as such I do not anticipate any privacy issues will occur. No additional windows are proposed on the north facing side elevation.

On the south side elevation one large window is present at first floor and one window is present at ground floor towards the east of the property close to the SE neighbouring dwelling. The proposal seeks to remove the ground floor window and reposition the windows at ground floor towards the westerly side of the side elevation. Sliding/folding doors are proposed here. At first floor two small obscurely glazed windows are proposed to serve bathrooms. Given the alignment of the host dwelling within its plot I do not anticipate any privacy issues will occur as a result of the insertion of these windows. The surrounding properties are orientated away from this elevation



and are in excess of 30 m from the side elevation and screened by multiple boundaries. I do however think that it is appropriate to condition that the two windows on the S elevation at first floor serving the bathrooms be obscurely glazed to respect privacy of the occupier and neighbouring dwelling.

The proposal would not cause any detrimental impacts from overlooking, overbearing or loss of light to adjoining residential properties by virtue of their separation. The nearest affected neighbour would be Washtub Cottage to the south-east of the site. However this dwelling is set approx. 10 m forward from the application dwelling and due to the positioning of windows and boundary treatment, I do not anticipate that the proposal will result in significant harm to their amenity.

On the basis of the above the proposed extension is not considered to affect the residential amenity of any neighbouring residents including loss of light, privacy or overbearing impacts, in accordance with Policy DM6. I assess the impact of the proposal on amenity to be neutral and therefore satisfy policy DM5 & DM6.

#### *Impact upon the Highway*

Spatial Policy 7 indicates that development proposals should be appropriate for the highway network in terms of the volume and nature of traffic generated and ensure the safety, convenience and free flow of traffic using the highway are not adversely affected; and that appropriate parking provision is provided. Policy DM5 of the DPD requires the provision of safe access to new development and appropriate parking provision.

I note that concerns have been raised by the local residents about the impact the extension may have on the highway. I appreciate these concerns and note that the proposal seeks to increase the number of bedrooms within the property from 4 to 5. However I also acknowledge that the proposal has made the provision for 2 additional parking spaces within the double garage and that the site has an ample amount of off street parking to provide for a dwelling of this size. Whilst I acknowledge that Washtub Lane is a narrow road that serves a number of dwelling I do not feel that this proposal to extend Rose Cottage will exacerbate any highways issues or have a detrimental impact upon the highway. Indeed the Highway Authority have raised no objection and have stated "The proposed development will have negligible impact on the public highway. Therefore no objections are raised"

Given the comments from Highway Authority, I am of the opinion that the proposal would not lead to a significant impact on highway safety and would not conflict with aims of Spatial Policy 7 and Policy DM5.

#### *Flooding/Surface Water*

The site is not located within a medium or high risk flood zone as defined by the Environment Agency data and the proposal constitutes minor development of under 250m<sup>2</sup> in floor area. I consider the site has adequate drainage provision within it and sufficient porous surfacing to not increase the surface water run off elsewhere. I do not consider the proposal would cause any detrimental impacts to neighbours or the surrounding area from surface water run off or flooding impacts from the development.

## *Other Matters*

Comments have been received from neighbouring occupiers which object to the proposal and they have been duly taken on board. The comments raised which relate to the impact upon the amenity of the local people, impact upon the character of the area and impact upon the highway have been assessed above. I note that a comment has been received regarding the scale of the proposal and that it constitutes the creation of a new dwelling within South Scare. I appreciate that the proposal seeks to significantly extend the dwelling; however the extension is considered to be proportionate to the existing dwelling and site and is not considered to be an over intensification of development. Splitting the site to create an additional dwelling would require a separate planning application in its own right.

I note that the concerns over 'loss of a view' within the wider area and from the properties to the east are also not material planning considerations.

Additionally, as the application relates to the creation of more than 100m<sup>2</sup> of additional floor space, it will be CIL liable. The site is located within the designated 'Collingham' area in accordance with the Council's CIL Charging Schedule and as such a CIL levy of £70 per square metre applies. Details of CIL requirements will be included as a note to applicant on the decision notice. Net additional gross internal floorspace following development: 114 m<sup>2</sup>

## *Conclusion*

Whilst I am mindful that the scale and proportions of the extension to this dwelling are extensive, I acknowledge that the applicant has amended the design to balance the front elevation of the extension to propose an extension that would not unduly impact the character of the hostdwelling or surrounding area, and would also not detrimentally impact the amenity of neighbouring properties. As such it is considered that there are no material considerations why planning permission should not be granted.

## **RECOMMENDATION**

**Approve, subject to the following conditions:**

### **Conditions**

01

The development hereby permitted shall not begin later than three years from the date of this permission.

Reason: To comply with the requirements of Section 51 of the Planning and Compulsory Purchase Act 2004.

02

The development hereby permitted shall not be carried out except in complete accordance with the following approved plan references

- Site Location Plan - 16032.01 REV A
- Amended Proposed Plans – 16032.03J
- Amended Proposed Elevations – 16032.04K

unless otherwise agreed in writing by the local planning authority through the approval of a non-material amendment to the permission.

Reason: So as to define this permission.

03

The development hereby permitted shall be constructed entirely of the material details submitted as part of the planning application, stated in Section 11 of the application form, unless otherwise agreed in writing by the local planning authority.

Reason: In the interests of visual amenity.

04

The two first floor window openings on the south elevation shall be obscured glazed to level 3 or higher on the Pilkington scale of privacy or equivalent and shall be non-opening up to a minimum height of 1.7m above the internal floor level of the room in which it is installed. This specification shall be complied with before the development is occupied and thereafter be retained for the lifetime of the development unless otherwise agreed in writing by the local planning authority.

Reason: To safeguard against overlooking and loss of privacy in the interests of amenity of occupiers of neighbouring properties

### **Informative**

01

This application has been the subject of discussions during the application process to ensure that the proposal is acceptable. The District Planning Authority has accordingly worked positively and pro-actively, seeking solutions to problems arising in coming to its decision. This is fully in accordance with Town and Country Planning (Development Management Procedure) Order 2010 (as amended).

02

The applicant is advised that all planning permissions granted on or after the 1st December 2011 may be subject to the Community Infrastructure Levy (CIL). Full details of CIL are available on the Council's website at [www.newark-sherwooddc.gov.uk](http://www.newark-sherwooddc.gov.uk)

The proposed development has been assessed and it is the Council's view that CIL is PAYABLE on the development hereby approved as the gross internal area of new build is more than 100 square metres.

### **Background Papers**

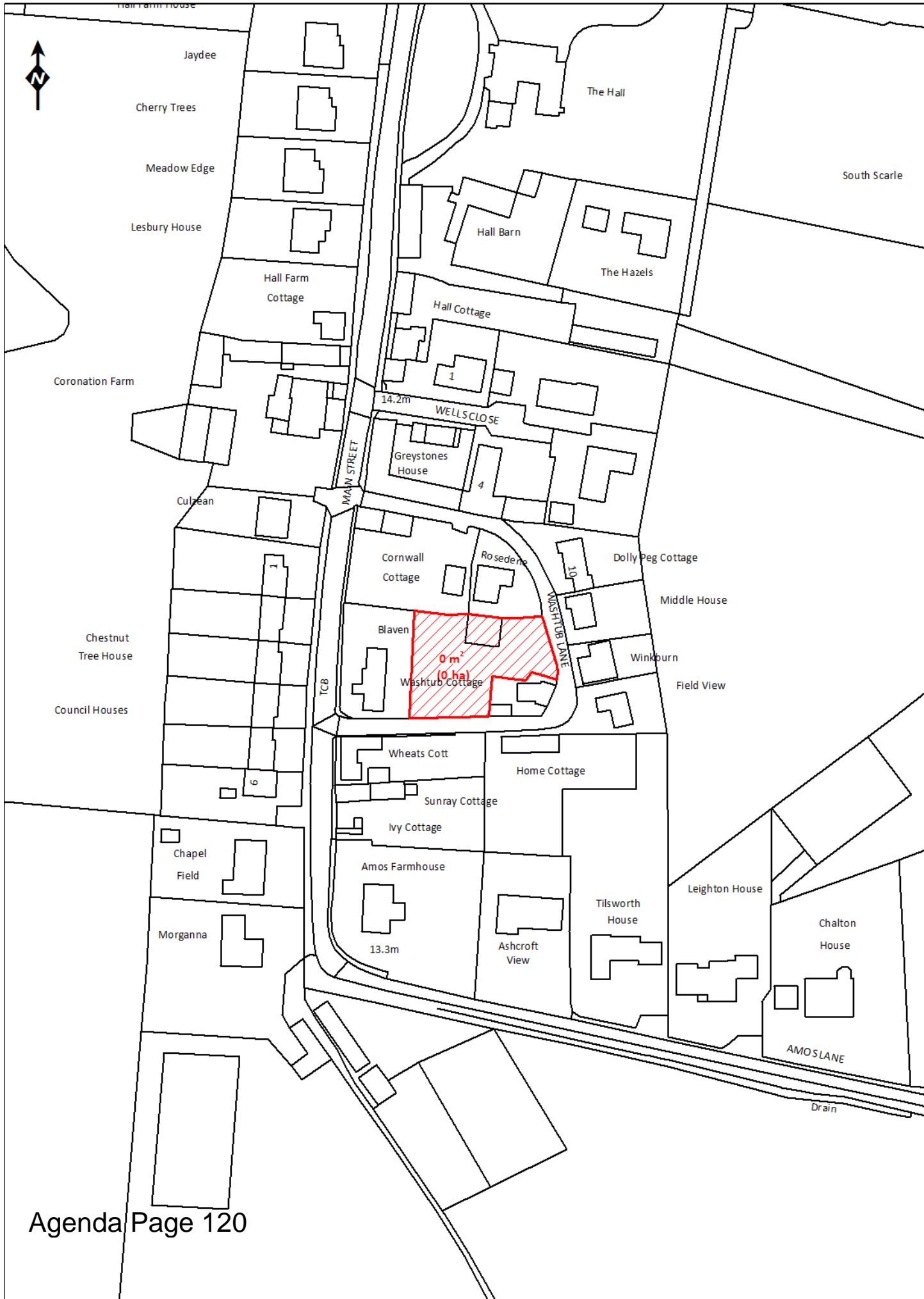
Application case file.

For further information, please contact Honor Whitfield on ext. 5827.

All submission documents relating to this planning application can be found on the following website [www.newark-sherwooddc.gov.uk](http://www.newark-sherwooddc.gov.uk).

**Kirsty Cole**  
**Deputy Chief Executive**

Committee Plan - 17/01987/FUL



<b>Application No:</b>	<b>17/02145/FUL</b>	
<b>Proposal:</b>	<b>Installation of dropped kerb and driveway plus provision of ramped/sloped access to rear door</b>	
<b>Location:</b>	<b>23 Haywood Oaks Lane, Blidworth, Nottinghamshire</b>	
<b>Applicant:</b>	<b>Newark and Sherwood Homes</b>	
<b>Registered:</b>	<b>05.12.2017</b>	<b>Target Date: 30.01.2018</b>

**This application relates to a site within the ownership of the District Council (not directly related to the 5 year NASH build programme) and is therefore required to be determined by the Planning Committee under the Council's Constitution.**

### The Site

The application site lies within the defined urban area of Blidworth, a 'Principal Village' as defined by the Core Strategy settlement hierarchy. The property is a red brick semi-detached hipped roofed property set back approximately 10m from the roadside. The land to the front of the property slopes from south to north and is grassed and enclosed by concrete fence posts and mesh fencing. A concrete path runs to the rear of the property where a collection of sheds and outbuildings are located. A single storey flat roofed extension is present on the rear of the property and is mirrored by the attached neighbouring dwelling. The occupier currently parks their vehicle on the garage court to the side of the property and gains access at the rear. However, the site to the east - a former garage court under the management of Newark & Sherwood Homes - was recently granted consent for the construction of 3 x 1 bed flats and this access arrangement is no longer possible. The site is located within Flood Zone 1 in accordance with Environment Agency mapping and not identified as being prone to surface water flooding.

### Relevant Planning History

17/00221/FUL - The demolition of 6 garages and the development of 3 x 1 bed flats. Approved October 2017

### The Proposal

Planning permission is sought to create a new access to the front (south) of the property and to increase the ground level in order to provide off road parking and access for the disabled resident with their mobility scooter. The rear flat roofed extension would be re-modelled to provide parking for the scooter.

### Public Advertisement Procedure

Occupiers of 5 properties have been individually notified by letter with the consultation expiry date being 28 December 2017.

## **Planning Policy Framework**

### **The Development Plan**

#### **Newark and Sherwood District Council Core Strategy DPD (adopted March 2011)**

Spatial Policy 7 - Sustainable transport

Core Policy 9 – Sustainable design

Core Policy 10 - Climate Change

Core Policy 12 - Biodiversity and Green Infrastructure

#### **Allocations & Development Management DPD**

DM5 – Design

DM6 – Householder Development

DM7 - Biodiversity and Green Infrastructure

DM12 – Presumption in Favour of Sustainable Development

### **Other Material Planning Considerations**

- National Planning Policy Framework 2012
- Planning Practice Guidance 2014

### **Consultations**

**Blidworth Parish Council** – No objection

**NCC Highways Authority** – No objection subject to condition

This proposal includes the installation of a dropped kerb and driveway, with a gradient falling away from the public highway. The layout as shown on drawing 2B is acceptable and proposes a gradient of 1:15; therefore, there are no highway objections subject to condition.

**No letters of representation received.**

### **Comments of the Business Manager**

#### *Principle of Development*

The application seeks to make alterations to a residential dwelling in order to facilitate an alternative access through the provision of a dropped kerb, driveway to its frontage plus the installation of a ramped/sloped access to the rear door. I consider that these proposals constitute development that would fall under the scope of a householder type of development which is accepted in principle under policies DM6 (and DM5) subject to site specific impacts being assessed and found to be acceptable.

#### *Visual Impacts*

The NPPF states that good design is a key aspect of sustainable development and new development should be visually attractive as a result of good architecture and appropriate landscaping. Core Policy 9 states that new development should achieve a high standard of sustainable design and layout that is of an appropriate form and scale to its context complementing the existing built and landscape environments.

The existing frontage is grassed with some vegetation planting and falls from south to north. The street scene is made up of a mix of green frontages and areas of hardstanding where off road vehicle parking has been provided. The land level to the front of the property would be raised to allow for vehicle parking, the land would be surfaced with charcoal grey block paving and a ramp created using dwarf red brick retaining walls to allow the owner to access the property.

The existing brick single storey flat roofed extension to the rear would be re-modelled through the increasing of door widths and providing internal access from the property to allow for parking of the mobility scooter. The block paved access path from the front of the property would be continued to the store at the rear.

Whilst the proposed hardstanding to the front of the property would change the character of the area and provide the frontage with an engineered appearance, off road hardstanding areas to the front of properties are not uncommon within the street scene. In addition two areas would remain within the frontage to allow for planting which would help soften appearance of the frontage. Weight is also given to the provision of an access for a disabled resident and the proposed construction would enable the dwelling to be accessible for life. Overall it is not considered that the proposed hardstanding and construction of an access ramp way would adversely impact upon the character or appearance of the area and the development would accord with policies DM5 and DM6 of the NSDC DPD.

#### *Impact on Highway Safety*

Policy DM5 is explicit in stating that provision should be made for safe and inclusive access to new development whilst Spatial Policy 7 encourages proposals which place an emphasis on non-car modes as a means of access to services and facilities.

I note that no objection has been raised by NCC Highways Authority in relation to the proposed development subject to the imposition of a condition to require a dropped kerb to be installed prior to the development being first brought into use. I consider this to be reasonable in the interests of highway safety. The proposed access would appear to offer sufficient space for 2 vehicles to park off the road with drainage provided to ensure the additional hard standing does not result in surface water concerns. Subject to the highway requested condition it is considered that the development would result in no detrimental impact on highway safety and would accord with Policy SP7 and DM5.

#### *Impact on Residential Amenity*

The NPPF seeks to ensure a good standard of amenity for all existing and future occupants of land and buildings. Policies DM5 and DM6 of the DPD require the layout of development within sites and separation distances from neighbouring development should be sufficient to ensure that neither suffers from an unacceptable reduction in amenity including overbearing impacts, loss of light and privacy.

It is not considered that the proposed access, area of hardstanding nor re-modelling of the extension to the rear of the property would adversely impact upon the amenity of neighbouring residents. It is therefore considered that the proposal will accord with Policy DM5 of the DPD.

## *Conclusion*

The proposed hardstanding and engineering works are not considered to adversely impact upon the character or appearance of the surrounding area, neighbouring amenity nor highway safety and there are not considered to be any further material considerations that would prevent planning permission being granted.

## **RECOMMENDATION**

**That full planning permission is approved subject to the following conditions:**

### **Conditions**

01

The development hereby permitted shall not begin later than three years from the date of this permission.

Reason: To comply with the requirements of Section 51 of the Planning and Compulsory Purchase Act 2004.

02

The development hereby permitted shall not be carried out except in complete accordance with the following approved plans

- Proposed Layout Dwg No. 2B
- Proposed Section A-A Dwg No. 5
- Proposed Section B-B Dwg No. 6

unless otherwise agreed in writing by the local planning authority through the approval of a non-material amendment to the permission.

Reason: So as to define this permission.

03

The development hereby permitted shall be constructed entirely of the material details submitted as part of the planning application, stated in Section 9 of the application form, unless otherwise agreed in writing by the local planning authority.

Reason: In the interests of visual amenity.

04

No part of the development hereby permitted shall be brought into use until a dropped vehicular crossing is available for use and constructed in accordance with the Highway Authority's specification.

Reason: In the interests of highway safety.



## **Notes to Applicant**

01

The applicant is advised that all planning permissions granted on or after the 1<sup>st</sup> December 2011 may be subject to the Community Infrastructure Levy (CIL). Full details of CIL are available on the Council's website at [www.newark-sherwooddc.gov.uk/cil/](http://www.newark-sherwooddc.gov.uk/cil/)

The proposed development has been assessed and it is the Council's view that CIL is not payable on the development given that there is no net additional increase of floorspace as a result of the development.

02

This application has been the subject of discussions during the application process to ensure that the proposal is acceptable. The District Planning Authority has accordingly worked positively and pro-actively, seeking solutions to problems arising in coming to its decision. This is fully in accordance with Town and Country Planning (Development Management Procedure) Order 2010 (as amended).

03

The development makes it necessary to improve a vehicular crossing over a footway of the public highway. These works shall be constructed to the satisfaction of the Highway Authority. You are, therefore, required to contact VIA, in partnership with NCC, tel: 0300 500 8080 to arrange for these works to be carried out.

### Background Papers

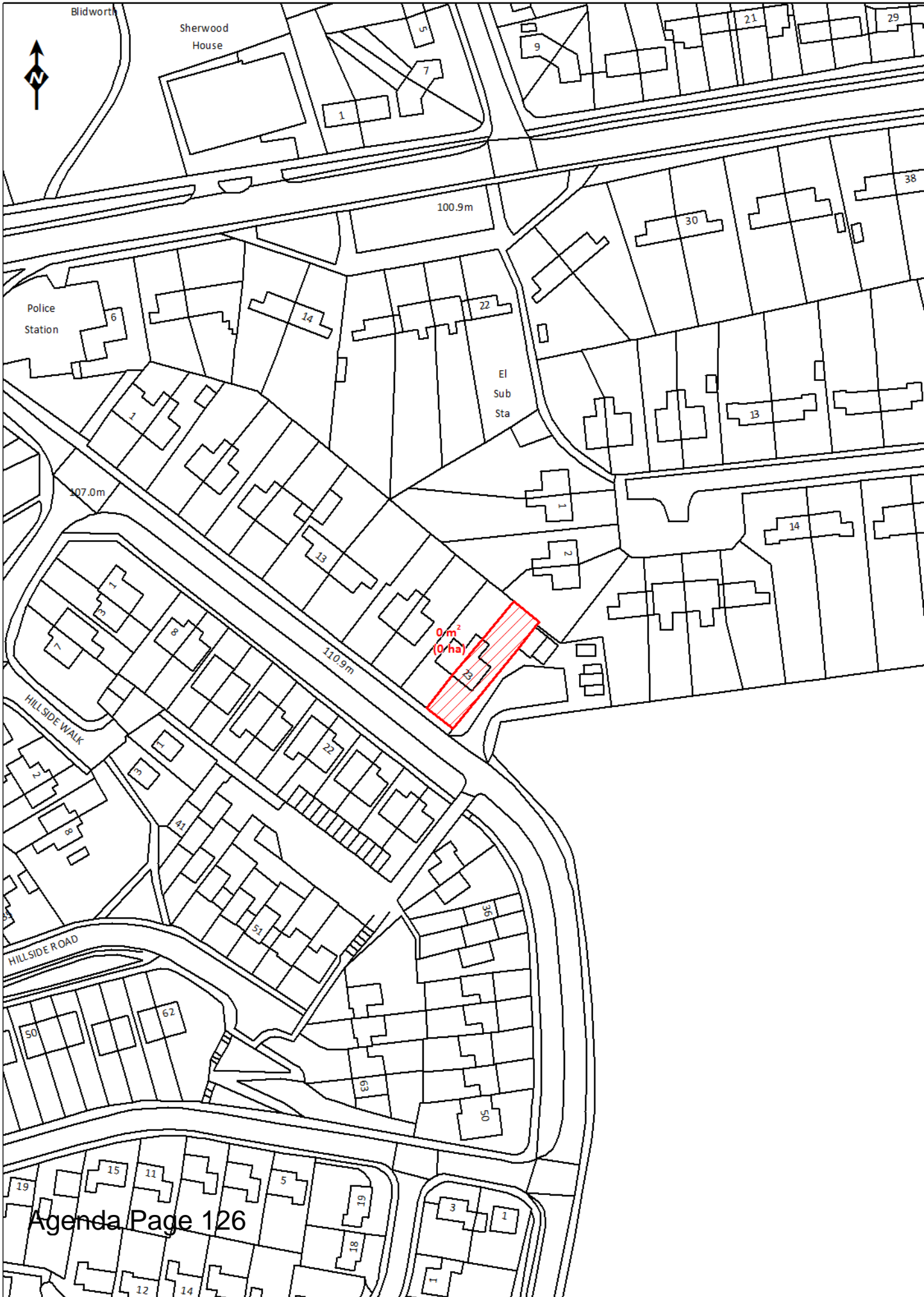
Application case file.

For further information, please contact James Mountain on Ext 5841.

All submission documents relating to this planning application can be found on the following website [www.newark-sherwooddc.gov.uk](http://www.newark-sherwooddc.gov.uk).

**Kirsty Cole**  
**Deputy Chief Executive**

Committee Plan - 17/02145/FUL



<b>Application No:</b>	<b>17/01910/OUTM (MAJOR)</b>	
<b>Proposal:</b>	<b>Variation of condition 14 attached to planning permission 16/01618/OUTM to allow an increase of the number of dwellings being accessed off each access (from 10 to 12 in each case)</b>	
<b>Location:</b>	<b>Land At Oldbridge Way, Bilsthorpe, Nottinghamshire, NG22 8TF</b>	
<b>Applicant:</b>	<b>Coultas Farming Ltd - Miss Pam Dutton</b>	
<b>Registered:</b>	<b>20.10.2017</b>	<b>Target Date: 19.01.2018</b>

**This application is being presented to the Planning Committee in line with the Council's Scheme of Delegation as Bilsthorpe Parish Council has objected to the application which differs to the officer recommendation.**

### The Site

The application site is a large, broadly linear plot approximately 8.25 hectares in extent abutting the southern edge of the village envelope towards the west of the village. Owing to the positioning of the site adjacent to the village envelope, three of the four boundaries are shared with residential curtilages of existing properties. Land to the south is open countryside. The red line site location plan wraps around the edge of the village envelope with the exception of the exclusion of an existing playing field to the north east corner of the site. The site slopes gradually from north to south with an existing agricultural land use.

The site is within Flood Zone 1 according to the Environment Agency maps although land outside the site, to the southern boundary, falls within Flood Zone 3. There are no designated heritage assets within the site. There are no formal rights of way within the site itself albeit it is understood from anecdotal evidence that the site is used informally by the public for dog walking etc.

### Relevant Planning History

The application has been submitted as a Section 73 variation of condition application in relation to the following application which was approved subject to conditions and an associated Section 106 agreement in April 2017 (presented to Members in January 2017):

**16/01618/OUTM** - Residential development of up to 113 dwellings with associated access, drainage infrastructure, landscaping, open spaces, car parking and all ancillary works. All matters reserved except for access. Approved 28 April 2017.

### The Proposal

The current application has been submitted as a Section 73 application to vary condition 14 of the above extant permission. For the avoidance of doubt condition 14 stated the following:

*Any access taken from Allandale and/or The Crescent shall serve no more than 10 dwellings in each case, unless otherwise agreed in writing with the LPA.*

*Reason: To restrict further development being served from a standard of existing access that would not support a significant increase in traffic; in the interests of safety.*

The application has been accompanied by a covering letter which confirms that, prior to the submission of the current application; discussion has been undertaken with the highways authority on the potential acceptability of amending the condition to allow for no more than 12 dwellings in each case (an increase in 2 from each access).

#### Departure/Public Advertisement Procedure

Occupiers of 105 properties have been individually notified by letter. A site notice has also been displayed near to the site and an advert has been placed in the local press.

#### Planning Policy Framework

##### The Development Plan

##### **Newark and Sherwood Core Strategy DPD (adopted March 2011)**

Spatial Policy 1 - Settlement Hierarchy  
Spatial Policy 2 - Spatial Distribution of Growth  
Spatial Policy 3 - Rural Areas  
Spatial Policy 6 - Infrastructure for Growth  
Spatial Policy 7 - Sustainable Transport  
Core Policy 1 - Affordable Housing Provision  
Core Policy 3 - Housing Mix, Type and Density  
Core Policy 9 - Sustainable Design  
Core Policy 12 - Biodiversity and Green Infrastructure  
Core Policy 13 - Landscape Character  
ShAP1 - Sherwood Area and Sherwood Forest Regional Park

##### **Allocations & Development Management DPD**

Policy DM3 - Developer Contributions and Planning Obligations  
Policy DM5 - Design  
Policy DM7 - Biodiversity and Green Infrastructure  
Policy DM8 - Development in the Open Countryside  
Policy DM12 - Presumption in Favour of Sustainable Development

##### Other Material Planning Considerations

- National Planning Policy Framework 2012
- Planning Practice Guidance 2014

## Consultations

**Bilsthorpe Parish Council** – The Parish Council voted on the above 17/01910/OUTM on Monday 13th November and decided to object to the above proposal. They would like you to take into consideration the previous comments as below when objections were given to the original application 16/01618/OUTM and also the attached concerns regarding the traffic within and around Bilsthorpe that was sent into NSDC in April 2017.

Comments were also made in relation to signage and have asked for improvements to be made especially around the one way system, this needs to be clearer that it is a one way system and also to stop vehicles reversing the wrong way.

*Original comments received in relation to 16/01618/OUTM as requested for inclusion:*

The Parish Council discussed the above and would like the following comments to be forwarded for consideration.

Improvements are required on the local roads first and suggestions are:

- Increased activity at junctions to A614 and A617 therefore increasing the already high risks to users of these junctions. Can traffic lights and /or a roundabout be installed on the A614 and A617. Visibility needs to be improved
- Increased population in Bilsthorpe will put a strain on the GP services provided from the local surgery. Currently residents feel they have to wait too long for a routine appointment.
- Younger village residents feel that they have don't have any priority from NSDC when wanting or needing to get their own property either from renting or buying. They would like to see the affordable housing on the proposed development prioritised for people living in Bilsthorpe.
- Will the parking be taken into consideration especially in proportion to the size of the houses and not to be parking bays in carparks but in front of the properties?
- Is there any land put to one side for allotments?

Due to Bilsthorpe, not being included as one of the areas for CIL investment some assistance from the developer to help with the upgrading of local amenities would be beneficial to all. Areas that are greatly in need are:

- Development of the small children's play area on Crompton Park.
- Provide suitable and sufficient fencing that would surround the whole perimeter of the play area and field at Crompton Road Park.
- Contribute to the CCTV provision on the play area.
- Cultivate the area of land on the play area that is currently uneven and long uncared for grass
- The village hall is not being used to its potential as it is in desperate need of decorating

There is a concern over the land being used for access on Chewton Close/The Crescent, this is now being maintained by the Parish Council and therefore there is concern over ownership, do the Developers own this land?

If the above is considered and actioned, then in principal at the moment there are no objections from the Parish Council.

*Following receipt of the comments of NCC Highways and the officer's resultant likely approach to highways contributions, officers contacted the Parish Council to confirm their position in the instance where no highways improvements would be sought through the development:*

"The parish council discussed and thanked you for sending over the highways report. It was decided and for the reasons already given over the concerns in relation to how the roads are at the moment within and around Bilsthorpe and with no upgrading or alterations planned, the council feel that to add more houses will only make the situation worse so they voted unanimously to object to the application."

*Letter sent to NSDC in April 2017 as requested for inclusion:*

Bilsthorpe Parish Council would like to raise the following concerns to Newark and Sherwood District Council, Planning Department and Committee also Nottinghamshire County Council Highways Department.

#### *Background*

In January 2017 a development of 113 dwellings on Oldbridge Way, Bilsthorpe was approved by NSDC Planning. This would potentially increase traffic within the village with approximately 226 vehicles. The Parish Council raised concerns both in writing and verbally to the planning committee meeting regarding the impact the increased traffic would have on the roads within the village, particularly the one way system on the Crescent that accesses the development and the access road junctions into and out of the village where Mickledale Lane joins the A614 and Farnsfield Road joins the A617. These concerns were not acknowledged and outline planning was approved.

#### *Current Situation*

An outline planning application has been raised for up to 93 dwellings on land off Maid Marian Ave, Bilsthorpe and a further 85 dwellings and retail development is planned for land off Eakring Road, Bilsthorpe potentially bringing an increase of 356 vehicles and associated delivery and business traffic.

#### *Points to be raised*

- Maid Marian Ave and Highfields Drive have cars parked on the road outside properties that impedes vision and the flow of traffic.
- The junction of Maid Marian Ave and Kirklington Road is situated by 4 busy shops, one being open from early morning until late evening, thus bringing an increase in traffic parking and movement around the junction. Cars are parked on the pavements in front of the shops, in the layby immediately in front of the shops and over the road from the junction on Kirklington Road preventing a safe view for pedestrians and manoeuvring traffic. A bus stop is situated within 15 metres to the left of the junction on Kirklington Road. At peak times this area is chaotic and feels unsafe without the additional traffic the development would bring.

- Eakring Road, Bilsthorpe is a well-used road with commercial and heavy goods vehicles in addition to cars. The speed of traffic is a concern on this road and several accidents have occurred involving speed. The village Youth Club is situated on this road. With a new development of housing and a proposed retail unit this will increase the risks on this road. Developers have indicated that if a retail unit is built a roundabout at the junction of Mickledale Lane and Eakring road would be considered. The Parish Council would like to request a roundabout is built for the housing development as this would assist in slowing traffic as it enters the village.
- For many years residents of Bilsthorpe have raised concerns with the risks involving the junctions that take traffic out of the village onto major trunk roads.
- The Mickledale Lane junction with the A614 has recently had “improvements” in the form of pedestrian islands, which in fact reduce visibility for road users, reduced speed limit to 50 mph and better lighting. Traffic from Mickledale Lane can go left, straight over or right with right turn lanes directly on the junction for traffic turning into Inkersall Lane/Limes Café or Bilsthorpe. At peak times queues form due to the volume of traffic, it being a direct route from the A1 to Nottingham, and the inadequacy of the junction.
- The Farnsfield Road junction with the A617 is a busy road that links the A1 with the M1 and is a major route for traffic from the A1 to Mansfield. It has poor visibility due to bends both left and right of the junction. Recently the speed limit has been reduced to 50mp which has helped however vehicles due tend to speed on that road.
- Residents say they feel land locked at peak times, feel extremely stressed when using these junctions and talk of experiencing and witnessing near misses on a regular basis.
- Bilsthorpe Parish Council , while in principle welcomes development of the village, has major concerns regarding all the points raised in this document and ask that this is considered in any current or future planning applications and that these issues can be addressed as soon as possible.

**Eakring Parish Council** - Eakring Parish Council thank you for consulting them on this proposal and see no objection to it as it involves no increase in the number of properties proposed.

**NSDC Environmental Health (contaminated land)** – No observations in relation to contaminated land.

**NSDC Environmental Health (noise)** – No comments to make.

**NSDC Access and Equalities Officer** – Observations in relation to Building Regulations.

**NCC Highways Authority** – The impact of another two homes on each of the accesses is not considered significant enough to recommend refusal. Therefore no objections.

**NCC Rights of Way** – This application may impact on Bilsthorpe Parish Foot Paths No 1, 16, 17 & 18 aka Stony Field Lane which runs alongside the northern boundary of the site & also cross the access point of Old Bridge Way as shown on the attached working copy of the definitive map.

Whilst not an objection this Office would require that the availability of the above path(s) is not affected or obstructed in any way by the proposed development at this location unless subject to appropriate diversion or closure orders. That we are consulted in any re surfacing or gating issues, also developers should be aware of potential path users in the area who should not be impeded or endangered in any way.

Any required path closure or diversion application should be made via consultation with this office.

**Ramblers Association** - As long as the integrity of Bilsthorpe Footpath 1 (which runs along the northern part of this development) is respected during and after the construction process we have no objection.

**Natural England** – I can confirm Natural England has assessed planning application 16/01618/OUTM using our Impact Risk Zones. We determined there would be no affects on any statutorily protected sites or landscapes.

**NCC Flood – No objections subject to the following:**

No construction work shall commence until a detailed surface water drainage design and management proposal is approved by the LPA. This should consider and comply with the following as appropriate

- 1.1 The principles contained within the FRA are acceptable however the applicant must reconsider alternatives for the adoption of any permeable surfaces or SUDS features as Nottinghamshire County Council do not adopt this type of feature, either as LLFA or Highway Authority.
- 1.2 For greenfield areas, the maximum discharge should be the greenfield run-off rate (Qbar) from the area. For brownfield areas that previously drained to sewers, the previous discharge rate should be reduced by 30% to allow for future climate change effects. Note that it is not acceptable to simply equate impermeable areas with discharge as it is the maximum discharge that could have been achieved by the site through the existing pipe system without flooding that is the benchmark to be used prior to a 30% reduction. An existing drainage survey with impermeable areas marked and calculations top determine the existing flow will be required as part of any justification argument for a discharge into the sewers from the site.
- 1.3 The site drainage system should cater for all rainfall events up to a 100year + 30% climate change allowance level of severity. The underground drainage system should be designed not to surcharge in a 1 year storm, not to flood in a 30 year storm and for all flooding to remain within the site boundary without flooding new buildings for the 100year + 30% cc event. The drainage system should be modelled for all event durations from 15 minutes to 24 hours to determine where flooding might occur on the site. The site levels should be designed to direct this to the attenuation system and away from the site boundaries.
- 1.4 Consideration must be given to exceedance flows and flow paths to ensure properties are not put at risk of flooding. These must be evidenced as part of the detailed design.
- 1.5 Any proposals to use SUDS must include details showing how these will be maintained to ensure their effectiveness for the lifetime of the development.



**Environment Agency** - We did not comment on the outline planning application so therefore have no comments to make on this variation of condition application.

**Trent Valley Internal Drainage Board** – The site is outside of the Board’s district and in the Board’s catchment.

No comments to make in respect of this application.

**A representations has been received from 1 local resident which can be summarised as follows:**

- Recent road surfacing has led to road closures which has caused chaos on the route out onto the A614 showing how putting extra strain on the village routes don’t work
- Extra housing in the village will not work due to its small size and can cause serious harm/danger to the village

### Comments of the Business Manager

#### Principle of Development

The application has been submitted as a Section 73 application to vary an existing condition to an already extant planning permission. The principle of development in terms of the erection of up to 113 dwellings has therefore been established. Nevertheless, given the scale of the development proposed (and indeed the continued concerns of both the Parish Council and neighbouring residents) it is considered beneficial to make reference to the material considerations which officers, and subsequently Members, applied to the approval of the extant scheme In January 2017 (decision issued in April to allow completion of the associated legal agreement) which assists with giving context to why development was approved on this site:

*‘the Council is aware of the need to assist housing supply on appropriate sites (in terms of impact and securing appropriate infrastructure/mitigation) until such time as a housing requirement figure has been tested and found sound. On this basis the Council will consider residential development on sustainable sites which fall immediately adjacent to main built up area boundaries and village envelopes (which meet the relevant requirements of the Development Plan in all other respects, and have the capacity (i.e. demonstrable ability to delivery) to positively contribute to boosting the supply of housing within the District in the short term. In this case it is necessary to consider the ability of the site to deliver within a 5 year supply, to assess all other impacts, and in the event that permission should be granted to include shorter timescales for implementation to ensure the contribution towards a 5 year supply is secured.’*

Members will be fully aware that this is no longer the housing supply position which is promoted by the LPA as demonstrated through the recent defence at the Public Inquiry for a co-joined housing site in Farnsfield. The Council’s position on new housing delivery was captured in July 2017 when its annual monitoring information was published. This identified that both stalled and new sites were contributing to an increased build-out rate. Indeed, based on housing completions as of 31<sup>st</sup> March 2017, the authority confirmed that it has a 6.2-year supply based on a housing target of 454 dwellings per annum. It is not considered necessary to rehearse the full position on housing land supply in respect to the current application given that the principle of development has already been accepted (and indeed the housing numbers achieved through the extant permission have been included in the latest assessments in the preparation of housing supply figures).

However it is important to be aware that the permission for housing on this site is already extant and the principle is not currently open for debate. Developers have until 28<sup>th</sup> October 2018 to submit an application for reserved matters.

The current Section 73 application relates solely to a condition in relation to the number of dwellings from already approved accesses. I therefore consider that the main issues for the current determination are whether the increase from 10 to 12 dwellings from each access would have an adverse impact on either highways safety or neighbouring amenity. The scope of the considerations is therefore narrow and the remainder of this report focuses on what can be considered.

#### Impact on Highways including Access

Although the application was been submitted in outline form, agreement of the access details was sought in the consideration of the extant permission.

It remains the case that it is proposed that the site will be accessed via three separate points of access. The main vehicular access to the site would be via an extension of Oldbridge Way which will enter the site from the east. Access points are also demonstrated from The Crescent and Allandale. Although the layout submitted was purely indicative, the originally submitted Transport Assessment confirmed an intention for the accesses from The Crescent and Allandale to serve a maximum of 10 dwellings. This was subsequently secured through condition 14 partially on the basis of a request from the Highways Authority. It is noted that the comments of NCC Highways on the original application (16/01618/OUTM) stated the following:

*'The indicative site masterplan shows small cul-de-sac extensions of Allandale and The Crescent. The nature of these accesses is such that development from them should be limited to, say, 10 dwellings off each'.*

Notwithstanding the above, the comments of NCC Highways on the current Section 73 application clearly hold greater weight in the current determination than the original comments on the extant scheme and Members will note that NCC Highways state for this application that two homes from each access is not considered to have significant impacts on the highways network which would warrant refusal. Officers concede that in the overall context of the surroundings, the use of the two smaller accesses for an additional two properties is unlikely to have a perceivable impact to the highway movements along The Crescent and Allandale.

I note the comments of the Parish Council who maintain an objection to the proposal on the basis of highways impacts notably in relation to the wider experienced issues in the village. Given that the current proposal does not alter the overall quantum of dwellings proposed, I do not consider that it would reasonable to resist the current application on the basis of the Parish Council concerns. I appreciate that there are references to applications which have been submitted since the original approval but this does not alter the fact that the current site has an extant approval. The other applications referenced will be assessed on their own merits.

Taking this into account, and in the absence of an objection from the highways authority, the proposal to vary condition 14 is considered to comply with Spatial Policy 7 and the relevant sustainability principles within the NPPF.

### Impact on Residential Amenity

It remains the case that the current application is not required to submit exact details of how the now 12 dwellings from each access would be laid out. It is therefore not possible, nor appropriate, to assess the exact amenity relationships which would arise from the proposed development and the surrounding existing dwellings.

I am conscious that if the current application were to be approved then existing occupiers along Allandale and The Crescent would be potentially subjected to an increased level of vehicular movements to serve the additional two dwellings. Nevertheless, as with the highways implications above, I again consider that this would not be a perceivable change in comparison to the extant permission which allows for 10 dwellings from each access. Arguably any slight increased detrimental impacts to neighbouring amenity of the occupiers along Allandale and The Crescent through disturbance would be counteracted by a very slight benefit to existing residents impacted by the main access from Oldbridge Way (i.e. the overall quantum of development would not increase and thus if there were four additional dwellings using Allandale or The Crescent, there would be four less dwellings using Oldbridge Way). On this basis I have identified no reason for which to resist the current application on the basis of Policy DM5 and its associated amenity requirements.

### Legal Agreement

The extant permission necessitated the completion of an associated legal agreement to secure contributions to make the development acceptable. For completeness these were in relation to the following matters:

- Affordable Housing
- Library Contribution
- Health Contribution
- Open Space
- Outdoor Sports Facilities Contribution
- Highways Works

The Highways Works relate to the delivery of the access from Oldbridge Way (to ensure it meets adoptable standards) and thus the current application would not necessitate a deed of variation to the agreed S106 which for the avoidance of doubt would still stand.

### Conditions

Given that the proposal relates to variation of a condition attached to a previous approval it is necessary to repeat all relevant conditions for clarity. In the instance where conditions have been previously discharged (only in relation to condition 16 in this case), the conditions are re-worded to ensure that development is implemented in accordance with the approved details.

As is referenced above, in the approval of the extant permission significant weight was attached to the authority's position on the ability to demonstrate a 5 year housing land supply at the time of determination. Part of the justification for granting approval was on the basis that the proposal could contribute towards housing land supply in the short term and thus a shorter timescale for implementation was imposed by condition 1. Section 73 of the Act does not allow the time for implementation to be extended and therefore condition 1 would need to be amended setting a specific date. This would still leave 9 months for the applicant to progress a reserved matters application.

For the avoidance of doubt where the wording of the conditions has been altered they are done so through underlined and italicised text.

### Overall Conclusions and Planning Balance

The application has been submitted to vary a condition solely related to the maximum number of dwellings permitted from two of the three accesses already agreed through the extant permission. Neither officers, nor the Highways Authority, have identified any additional harm arising from the proposed revised wording of Condition 14 and thus the Section 73 application is recommended for approval.

### **RECOMMENDATION**

Approve, subject to the following conditions:

#### **Conditions**

01

Applications for approval of reserved matters shall be made to the local planning authority not later than 28 October 2018.

The development hereby permitted shall begin not later than 18 months from the date of approval of the last of the reserved matters to be approved.

Reason: To comply with the requirements of Section 51 of the Planning and Compulsory Purchase Act 2004.

02

Details of the appearance, landscaping, layout and scale ('the reserved matters') shall be submitted to and approved in writing by the local planning authority before development begins and the development shall be carried out as approved.

Reason: This is a planning permission in outline only and the information required is necessary for the consideration of the ultimate detailed proposal.

03

Any details submitted in relation to reserved matters for landscaping shall include a schedule (including planting plans and written specifications, cultivation and other operations associated with plant and grass establishment) of trees, shrubs and other plants, noting species, plant sizes, proposed numbers and densities. The scheme shall be designed so as to enhance the nature conservation value of the site, including the use of locally native plant species and shall include details of a management plan.

Reason: In order to ensure the landscaping of the site promotes biodiversity on the site in accordance with the aims of Core Policy 12 of the Newark and Sherwood Core Strategy (2011).

04

The development hereby permitted authorises the erection of no more than 113 dwellings.

Reason: To define the planning permission as the technical studies submitted as part of the application assume a maximum number of 113 dwellings.

05

No development shall be commenced until details of the existing and proposed ground levels and finished floor levels of the site and approved buildings (respectively) have been submitted to and approved in writing by the local planning authority. The development shall be carried out thereafter in accordance with the approved details unless otherwise agreed in writing by the local planning authority.

Reason: In the interests of residential and visual amenity in accordance with the aims of Policy DM5 of the Newark and Sherwood Allocations and Development Management DPD (July 2013).

06

No development shall be commenced until a surface water drainage scheme, based on sustainable drainage principles and an assessment of the hydrological and hydrogeological context of the development, has been submitted to and approved in writing by the Local Planning Authority. The scheme shall subsequently be implemented in accordance with the approved details. The scheme to be submitted shall incorporate:

- Drainage from the site should be via a sustainable drainage system. The hierarchy of drainage options should be infiltration, discharge to watercourse and finally discharge to sewer subject to the approval of the statutory utility. If infiltration is not to be used on the site, justification should be provided including the results of infiltration tests.
- For greenfield areas, the maximum discharge should be the greenfield run-off rate (Qbar) from the area.
- The site drainage system should cater for all rainfall events up to a 100year + 30% climate change allowance level of severity. The underground drainage system should be designed not to surcharge in a 1 year storm, not to flood in a 30 year storm and for all flooding to remain within the site boundary without flooding new buildings for the 100year + 30% cc event. The drainage system should be modelled for all event durations from 15 minutes to 24 hours to determine where flooding might occur on the site. The site levels should be designed to direct this to the attenuation system and away from the site boundaries.
- The drainage system should include a 2-stage treatment of the rainfall from hardstanding areas in accordance with Ciria C697 to reduce the risk of pollution to the environment.
- Responsibility for the future maintenance of drainage features.
- A timescale for implementation of the scheme.

Reason: To prevent the increased risk of flooding; to improve and protect water quality; to improve habitat and amenity; and to ensure the future maintenance of the sustainable drainage structures.

07

The development hereby permitted shall not commence until drainage plans for the disposal of surface water and foul sewage have been submitted to and approved by the Local Planning Authority. The scheme shall be implemented in accordance with the approved details before the development is first brought into use.

Reason: To ensure that the development is provided with a satisfactory means of drainage as well as reduce the risk of creating or exacerbating a flooding problem and to minimise the risk of pollution.

08

Prior to the commencement of development, an Arboricultural Method Statement including a plan of the existing trees, hedging and boundary planting shown to be retained and future management thereof shall be submitted to and approved in writing by the Local Planning Authority. The statement shall include the method of protection for retained trees, hedging and boundary planting during the course of the development. The development shall then be carried out in accordance with the approved details. Any trees, hedging, or boundary planting which are not contained within the curtilage of any plots which die, are removed or are seriously damaged or diseased shall be replaced by trees or shrubs of a similar size and species to those removed, or otherwise first approved in writing by the local planning authority.

Reason: In order to protect biodiversity on the site in accordance with the aims of Core Policy 12 of the Newark and Sherwood Core Strategy (2011).

09

Before the development is commenced, details of bat boxes and bird nest boxes to be placed on either retained trees or new housing on the perimeters near to hedge/tree lines and a timetable of implementation shall be submitted to and approved in writing by the District Council. Once approved the bat boxes and bird nest boxes shall be erected in accordance with the approved details.

Reason: In order to enhance habitats on the site in accordance with the aims of Paragraph 118 of the National Planning Policy Framework (2012).

10

To avoid negative impacts to nesting birds, any clearance works of vegetation on site should be conducted between October to February inclusive, outside the bird breeding season. If works are conducted within the breeding season, between March to September inclusive, a nesting bird survey must be carried out by a qualified ecologist prior to clearance. Any located nests must then be identified and left undisturbed until the young have left the nest.

Reason: In order to protect biodiversity on the site in accordance with the aims of Core Policy 12 of the Newark and Sherwood Core Strategy (2011).

011

Details submitted pursuant to the first application for approval of reserved matters consent shall include a draft information leaflet to be distributed to all new residents within the development regarding the ecological value of the local area and the sensitivities of woodlark and nightjar, requesting that dog walking after dusk, during the breeding season within the key areas for nightjar, is avoided. Once approved by the local planning authority in consultation with the Nottinghamshire Wildlife Trust, the information leaflet shall form part of the 'welcome pack' to be distributed by the developer of the site to first occupants following legal completion.

Reason: In order to protect biodiversity in the District in accordance with the aims of Core Policy 12 of the Newark and Sherwood Core Strategy (2011).

012

The development shall be carried out in accordance with the Precautionary Method of Works outlined by the document produced by RammSanderson, 11/08/2016), which relates to nesting birds, reptiles and badgers.

Reason: In order to protect biodiversity in the District in accordance with the aims of Core Policy 12 of the Newark and Sherwood Core Strategy (2011).

013

Notwithstanding the submitted indicative site masterplan, all site highway layouts should comply with the Highway Authority design guidance current at the time of application for reserved matters unless otherwise agreed by the Highway Authority and shall be submitted to and agreed in writing by the LPA.

Reason: To ensure the development is constructed to safe, adoptable standards.

014

Any access taken from Allandale and/or The Crescent shall serve no more than 12 dwellings in each case, unless otherwise agreed in writing with the LPA.

Reason: To restrict further development being served from a standard of existing access that would not support a significant increase in traffic; in the interests of safety.

015

No part of the development hereby permitted shall be brought into use unless or until a scheme to upgrade the four bus stops in the vicinity of the site (NS0032, NS0595, NS0596 and NS0599) has been submitted to an approved in writing by the LPA. The approved scheme shall be fully implemented prior to occupation of any dwelling or in accordance with a phasing plan which shall be first agreed in writing by the LPA. For the avoidance of doubt the submitted scheme shall include real time bus stop poles & displays including associated electrical connections, solar lighting, raised boarding kerbs and enforceable bus stop clearways.

Reason: To promote sustainable travel.

016

*The development should be carried out in accordance with the methodology of the document 'Specification for an Archaeological Monitoring and Recording' undertaken by PCAS Archaeology and dated October 2017; submitted through the discharge of condition request reference 17/01499/DISCON (and previously agreed by letter dated 10<sup>th</sup> October 2017).*

Reason: In the interests of protecting any potential archaeological value of the site.

## **Informatives**

01

The Advanced Payments Code in the Highways Act 1980 applies and under Section 219 of the Act payment will be required from the owner of the land fronting a private street on which a new building is to be erected. The developer should contact the Highway Authority with regard to compliance with the Code, or alternatively to the issue of a Section 38 Agreement and bond under the Highways Act 1980. A Section 38 Agreement can take some time to complete. Therefore, it is recommended that the developer contact the Highway Authority as early as possible.

It is strongly recommended that the developer contact the Highway Authority at an early stage to clarify the codes etc. with which compliance will be required in the particular circumstance, and it is essential that design calculations and detailed construction drawings for the proposed works are submitted to and approved by the County Council (or District Council) in writing before any work commences on site.

02

In order to carry out the off-site works required, you will be undertaking work in the public highway which is land subject to the provisions of the Highways Act 1980 (as amended) and therefore land over which you have no control. In order to undertake the works you will need to enter into an agreement under Section 278 of the Act.

03

The proposed development lies within a coal mining area. In the circumstances applicants should take account of any coal mining hazards to stability in their proposals. Developers must also seek permission from the Coal Authority before undertaking any operations that involve entry into any coal or mines of coal, including coal mine shafts and adits and the implementation of site investigations or other works. Property specific summary information on any past, current and proposed surface and underground coal mining activity to affect the development can be obtained from the Coal Authority. The Coal Authority Mining Reports Service can be contacted on Tel; 0845 7626848 or at [www.coal.gov.uk](http://www.coal.gov.uk).

04

You are advised to consider whether there are opportunities to incorporate innovative boundary measures to restrict public access and cat access to the areas important for woodlark and nightjar when submitting details relating to the reserved matters.

05

The applicant is advised that all planning permissions granted on or after the 1st December 2011 may be subject to the Community Infrastructure Levy (CIL). Full details of CIL are available on the Council's website at [www.newark-sherwooddc.gov.uk/cil/](http://www.newark-sherwooddc.gov.uk/cil/)

The proposed development has been assessed and it is the Council's view that CIL is not payable on the development hereby approved as the development type proposed is zero rated in this location.

06

The application as submitted is acceptable. In granting permission without unnecessary delay the District Planning Authority is implicitly working positively and proactively with the applicant. This is fully in accordance with Town and Country Planning (Development Management Procedure) Order 2010 (as amended).

07

The applicant should note that notwithstanding any planning permission, if any highway forming part of the development is to be adopted by the Highways Authority. The new roads and any highway drainage will be required to comply with the Nottinghamshire County Council's current highway design guidance and specification for roadworks.



The Advanced Payments Code in the Highways Act 1980 applies and under section 219 of the Act payment will be required from the owner of the land fronting a private street on which a new building is to be erected. The developer should contact the Highway Authority with regard to compliance with the Code, or alternatively to the issue of a Section 38 Agreement and bond under the Highways Act 1980. A Section 38 Agreement can take some time to complete. Therefore, it is recommended that the developer contact the Highway Authority as early as possible (Dave Albans 01158040015).

08

Severn Trent Water advises that there is a public sewer located within the application site. Public sewers have statutory protection by virtue of the Water Industry Act 1991 as amended by the Water Act 2003 and you may not build close to, directly over or divert a public sewer without consent. You are advised to contact Severn Trent Water to discuss your proposals. Severn Trent Water will seek to assist you in obtaining a solution which protects both the public sewer and the proposed development.

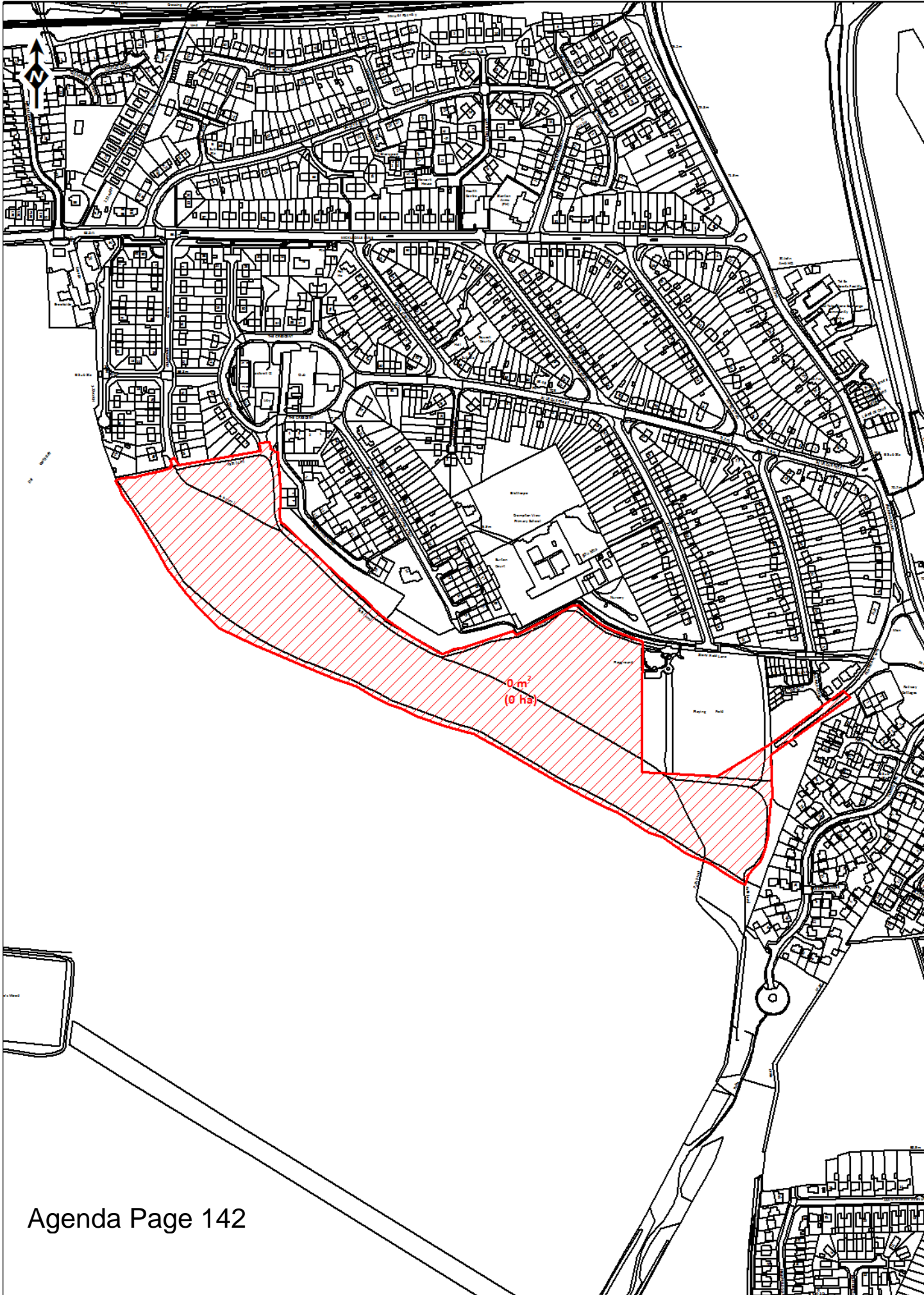
#### Background Papers

Application case file.

For further information, please contact Laura Gardner on ext. 5907.

All submission documents relating to this planning application can be found on the following website [www.newark-sherwooddc.gov.uk](http://www.newark-sherwooddc.gov.uk).

**Kirsty Cole**  
**Deputy Chief Executive**



<b>Application No:</b>	<b>16/01884/FUL</b>
<b>Proposal:</b>	<b>Change of use of scrubland for the siting of 8 static mobile homes for gypsy travellers and reduce ground levels to 10.5m AOD</b>
<b>Location:</b>	<b>Shannon Falls, Tolney Lane, Newark</b>
<b>Applicant:</b>	<b>Mr C Price</b>

This application was considered by the Planning Committee on 25 January 2017 when Members resolved to refuse planning permission on the grounds of flood risk. Copied at the end of this short report is a copy of the officer report that came before Members and the recorded minutes detailing the debate and confirming the resolution of the Planning Committee.

The applicant has appealed against the refusal of planning permission and an Informal Hearing is due to take place on 27 February 2018. Within the appeal submission, additional information has been submitted in relation to the proposed occupiers of the site that was not before Members when they came to their decision, which represents further material evidence that could have been weighed in the balance in the consideration process. The additional personal circumstances detail set out within their appeal documentation is copied below.

*“The appellant is a general dealer who mainly trades in vehicles and scrap metal and goes around vehicle repair garages touting for business. He also travels to fairs at Appleby, Stow-on-the-Wold, Kenilworth and Newcastle-upon-Tyne to buy and sell anything on which he can make a profit. The appellant travels for up to 6 months of the year and, although now 73 years of age, wishes to continue travelling for as long as he can.*

*Creddy and his extended family do not have their own pitches and are reliant on doubling-up on relatives’ sites with inadequate facilities and no security of tenure. They have been trying to establish a home base in Newark for many years but, have not been able to find any alternative to Shannon Falls.*

*The appeal site is intended to accommodate the following households:*

*Creddy and Rebecca Price;  
Romeo (Creddy’s brother) and Babs Price;  
Elvis (Creddy’s brother) and Dilly Price;  
Beryl Price (Creddy’s sister);  
Sylvia Smith (Rebecca’s sister); and  
Andrew and Jana (Rebecca’s sister) Price.*

*They have a need for lawful accommodation in this area, and for a site where they can live together as a traditional family group in order to provide each other with mutual help and support.”*

**To be clear, had this information been presented with the original application, officers would have likely recommended a personal permission be granted for a temporary period of 3 years.** In the light of this additional material information that has been received, Members are asked to consider whether this would be likely to affect their resolution on this proposal if the matter were to come before them again, for determination.

The other material planning considerations relating to flooding, impact on the countryside and character of the area, residential amenity, highway considerations and access to services have not changed since the consideration of the application a year ago. However, the need for gypsy and traveller pitches, which was at 21 for the period 2013-2018 in January 2017, (taking account of planning permissions granted since) has now fallen to 2 within the same 2013-2018 five year tranche. However it is also acknowledged that on a rolling five year basis the Authority is presently unable to demonstrate a five year land supply and that under this measure there is an unmet requirement for 14 pitches between 2017 – 2022. Members will therefore have to give appropriate weight to this material change since the previous decision a year ago.

I would also draw to Members' attention two further matters. Firstly, the Conclusions and Balancing Exercise of the officer's Committee report copied below which considers that the lack of information on the occupiers of the site results in officers being unable to recommend a temporary planning permission be approved in line with the Green Park application. Secondly, as set out within the Minutes copied below, during the debate on the proposal at the meeting, a number of differing resolutions were put before Members and each one was lost on a single vote.

**Officers therefore request a further informal resolution of the Planning Committee on this proposal to consider whether Members would be likely to come to a different resolution in light of the additional and more up to date material information presented above, either in terms of the granting of a temporary or permanent and personal planning permission. This further informal consideration and resolution can then be presented to the Planning Inspector and taken into account during the Hearing to take place at the end of February 2018.**

**Copy of Minutes of item agreed by Committee at their meeting on 2 February 2017:**

**SHANNON FALLS, TOLNEY LANE, NEWARK (16/01884/FUL)**

The Committee considered the report of the Deputy Chief Executive, which sought planning permission for the change of the site from scrubland to the creation of 8 pitches each one housing a static mobile home each with its own associated amenity building.

Councillor D. Lloyd representing Newark Town Council spoke against the application in accordance with the views of the Town Council, as contained within the report.

Members considered the application and it was commented that the Authority should undertake a lead role in sorting out the flooding issues on Tolney Lane. This area was home to the Gypsy and Travelling community and had been for many years and their safety should be carefully considered. A bridge was suggested as a solution for quick egress in the event of flooding, which could be built in the middle of Tolney Lane. The bridge would be a solution to the safety issues and would enable planning permission to be granted within this area. Concerns were raised regarding the tethering of caravans and the safety implications to the residents of Tolney Lane.

A Member sought clarification regarding a planning appeal on land directly to the north of the application site. It was confirmed that there had been an issue with the receipt of the appeal and that it had been returned.

Members suggested that the item be deferred pending further investigation into safety solutions for this area.

A vote was taken to defer the application, which was lost with 5 votes for and 6 votes against.

A further vote was taken to grant the application, subject to conditions, which was lost with 5 votes for and 6 votes against.

AGREED (with 6 votes for and 5 votes against) that full planning permission be refused for the reason contained within the report.

**Copy of officer report to Planning Committee:**

**PLANNING COMMITTEE – 25 JANUARY 2017**

**AGENDA ITEM NO. 11**

<b>Application No:</b>	<b>16/01884/FUL</b>	
<b>Proposal:</b>	<b>Change of use of scrubland for the siting of 8 static mobile homes for gypsy travellers and reduce ground levels to 10.5m AOD</b>	
<b>Location:</b>	<b>Shannon Falls, Tolney Lane, Newark</b>	
<b>Applicant:</b>	<b>Mr C Price</b>	
<b>Registered:</b>	<b>30 November 2016</b>	<b>Target Date: 25 January 2016</b>

**This application is being referred to the Planning Committee for determination in accordance with the approved scheme of delegation.**

**The Site**

The application site is situated west of the Newark Urban Area, within the Rural Area as defined by the Newark and Sherwood Core Strategy and within the countryside. The site sits on the north side of Tolney Lane which runs in a westerly direction from the Great North Road which leads to a dead end. It sits at a junction where Tolney Lane forks into two and the northern arm runs towards the railway line. It is located between the River Trent to the south-east and the railway line to the north-west. The application site represents the western part of a wider site known locally as Shannon Falls which is located between the larger gypsy and traveler sites known as Church View to the east and Hoes Farm to the west. The application site is situated on the southern side of a larger site known locally as Shannon Falls.

The vacant site measures 0.4 hectares in area and is roughly rectangular in shape. It measures approx 115 metres long by approx 30 metres wide. The application form describes the site as scrubland although there is evidence of recent earthworks on the site providing a flat earthed application site bounded on three side by bunds of earth whereas the boundary to the south-east (adjacent to Tolney Lane) is defined by high mature leylandii trees. Beyond the application

site boundary to the north-east and north-west is the remainder of the larger Shannon Fall site which is rough land, at risk from the dumping of household waste. The south-western boundary of the site is defined by the road, although there is no existing access into the site and the earth bunds are intended to prevent access.

Approximately two thirds of the site (to the south-east) is within Flood Zone 3 of the Environment Agency's Flood Map/Strategic Flood Risk Assessment, and the remaining third to the north-west is located within Flood Zone 2. The application site is outside the designated Conservation Area but the boundary of Newark Conservation Area runs along the southern side of Tolney Lane, opposite the site.

Historically, the site has been subjected to material being tipped onto the land to raise ground levels which occurred roughly in 2001. This has never been authorised in planning terms and continues to be the subject of an Enforcement Notice as set out in the history section below. Early in 2016, the site was also subjected to fly tipping of household and commercial waste. Following concerns raised by the Council's Environmental Health Service, the waste was removed from the site which has now been left level and clean and tidy with earth bunds around the boundaries to seek to prevent a repeat of waste dumping.

Tolney Lane accommodates a large Gypsy and Traveller community providing in excess of 200 pitches.

#### Relevant Planning History

Including the application site and adjacent vacant land to the north and east:

E/1/1129 - Use of the land as a site for caravans, refused in 1959;

E/1/2531 - Construct a residential caravan site, refused in 1970;

02/02009/FUL - Use of land as residential caravan site (21 plots) and retention of unauthorised tipping on the land which raised land levels, refused on flooding grounds.

Two enforcement notices were served which sought to firstly cease the use as a caravan site and remove all caravans from the land and secondly to remove the unauthorised tipping from the land so that no part of the site is above the level of 10.5 AOD. The applicant appealed to the Planning Inspectorate but on 25 May 2006, the appeals were dismissed and the enforcement notices upheld on the land and still stand.

Whilst the site has ceased being used as a caravan site, the unauthorised tipping remains on the land, artificially raising ground levels.

On land directly to the north but excluding the application site:

15/01770/FUL - Change of Use of Land to a Private Gypsy and Traveller Caravan Site, consisting of One Mobile Home, Two Touring Caravans and One Amenity Building, refused by Planning Committee in May 2016 for the following reason:

“The proposed development represents highly vulnerable development that would be located within Flood Zone 3 and therefore should not be permitted in accordance with the National Planning Policy Framework and the PPG. Whilst the Sequential and Exception Tests do not fall to be applied in this case, even if they were applicable, whilst the Sequential Test may be considered to be passed on the basis that there are no reasonably available alternative sites for this use, the proposal fails the Exception Test. The submitted Flood Risk Assessment does not comply with the requirements set out in the Site Specific Flood Risk Assessment Checklist (paragraph 68) of the Flood Risk and Coastal Change Section of the Planning Practice Guidance and therefore fails to adequately demonstrate that the development will be safe for its lifetime, without increasing flood risk elsewhere.

In the opinion of the Local Planning Authority, the proposal would therefore place both the occupants of the site and the wider area at risk from flooding and be contrary to the National Planning Policy Framework and the Planning Practice Guidance, Core Policies 5 and 10 of the Newark and Sherwood Core Strategy and Policy DM5 of the Allocations and Development Management DPD.”

It is noted that the applicant has recently appealed against this decision.

This application site only:

12/01088/FUL - Change of Use of scrub land for the siting of 8 static mobile homes for gypsy travellers (and 8 associated amenity blocks). This was identical to this current application. Planning permission was refused by Planning Committee in July 2013 for the following reason:

“The proposed development represents highly vulnerable development that would be located within Flood Zone 3 and therefore should not be permitted in accordance with the National Planning Policy framework and its Technical Guidance. Whilst the Sequential and Exception Tests do not fall to be applied in this case, even if they were applicable (which they are not), whilst the Sequential Test may be considered to be passed on the basis that there are no reasonably available alternative sites for this use, the proposal fails the Exception Test. The submitted Flood Risk Assessment does not comply with the requirements sets out in paragraph 9 of the Technical Guidance to the NPPF and therefore fails to adequately demonstrate that the development will be safe for its lifetime, without increasing flood risk elsewhere.

In the opinion of the Local Planning Authority, the proposal would therefore place both the occupants of the site and the wider area at risk from flooding and be contrary to the National Planning Policy Framework and its Technical Guidance, Core Policies 5 and 10 of the Newark and Sherwood Core Strategy and saved Policy PU1 of the Newark and Sherwood Local Plan.”

## The Proposal

Planning permission is sought for the change of the site from scrubland to the creation of 8 pitches each one housing a static mobile home each with its own associated amenity building. Each mobile home measures 4m by 8m and each amenity building measures 3.5m by 4m, 2.1 m to the eaves and 4.3m to the ridge. The latter will be constructed of brick with tiled roof. One parking bay will also be provided within each pitch. The applicant has confirmed that he and his family are a local family of travellers who have a good reputation within the local community and who currently reside with their wider family.

The use has not yet commenced on the site. The proposed site will be served by a 5m wide access road adjacent to the western boundary of the site, each pitch is roughly 300 square metres in area. The majority of the existing hedgerow fronting Tolney Lane is to be retained. The western boundary of the site, together with fencing to sub-divide the pitches are provided by 1.8m high timber panel fencing to provide privacy. Some hardstanding areas outside the mobile homes will receive a gravel finish suitable for vehicle use.

The site will be accessed from two points, one along the western boundary and one in the south-west corner of the site in accordance with the Highway Authority's specifications.

Accompanying the application is a Design and Access Statement and a Flood Risk Assessment. In support of his proposal, the applicant has confirmed that he owns the site and after travelling from site to site for a number of years, often residing on unauthorised land, he wishes to settle on this site and allow the other pitches to be used by further travellers who require pitches to establish their residence. The Design and Access Statement also states that

“demand for these locations is very high as it allows travellers to re-home legally on land they own and not illegally on private land which can become a nuisance. The need for Gypsy traveler sites within the local area is very high and there is minimal provision for sites within the development plan. By utilizing this unused parcel of land, reduces the demand for mobile homes within this area. It allows travellers to live together on private land designated for this land use, away from the public view, thus having minimal effect on the surrounding area.”

The description of the development includes the lowering of land levels on the site to 10.5m AOD however, no detailed information has been submitted in support of this and how the lowering of levels would relate to the land levels around the site afterwards and how that would be dealt with, and there is nothing provided regarding how the spoil would be removed and where it would be taken.

The submitted Flood Risk Assessment states that the Local Authority has requested that site levels generally are reduced to 11.48m AOD (ie the same level as the entrance from Tolney Lane). The description of proposed development is therefore in direct contradiction to the submitted FRA.

The Flood Risk Assessment (FRA) states that the southern end of the site and its access is within Flood Zone 3 (at risk of fluvial flooding via an over-topping of the River Trent in a 1 in 100 year event) while the northern end of the site is in Flood Zone 2. The Assessment comments that the Technical Guidance of the National Planning Policy Framework states that the Local Planning Authority may permit 'highly vulnerable' development in Flood Zone 3a provided that it ensures the development is of a suitable standard. It goes on to say that although it should be ideally located within Flood Zone 1, it can be sited within Flood Zone 2 if the Exception test is passed and can be sited in Flood Zone 3a at the discretion of the Local Planning Authority.



The FRA confirms that levels on the site rise from 11.48m AOD at its entrance to 12.31m AOD towards the north-west boundary. The Assessment states that the Local Authority has requested that site levels generally are reduced to 11.44m AOD (ie the same level as the entrance from Tolney Lane). It also states that in order to raise floor levels of the mobile homes above flood waters, caravans would be sat on stone gabions that raise them to a minimum of 12.31m AOD. This would give a minimum finished floor level to the caravans of 12.91m AOD, 300mm above the modelled flood level for a 1 in 100 year event including an allowance for climate change, of 12.61m AOD (the 1 in 1000 year event). However, the rest of the land on the site (including the amenity blocks and amenity/parking areas would remain at 11.48m AOD. The report contends that the localised raising of the caravans would remove a small volume from the flood plain however; the caravans would be sat upon permeable stone fill in the form of stone gabions that would allow water to pass through them, thus reducing the flood risk elsewhere by providing some storage volume. Allowing for 600mm between ground level and floor level, the minimum ground level shall be 12.31m AOD, a maximum of 1070mm above the proposed reduced ground level.

The FRA also states that it is proposed that all caravans should be anchored by tension chains to prevent flotation in extreme flood and concordant risk to persons and property downstream. The FRA contends therefore that the addition of tension chains to the structure creates a building used for residential purposes when considered against the classifications of the Technical Guidance. This means that caravans, when anchored, can be considered as 'more vulnerable' not 'highly vulnerable.'

The FRA concludes that the depth of water is such that access and egress from the site will not be possible during times of flood. Therefore an evacuation plan is required which will remove occupants of the site before an overtopping event. A Flood Warning and Evacuation Plan is included within Appendix D of the FRA.

In terms of the effect on the flood plain, the assessment has considered the impact of the local raising of land on flood levels elsewhere. The flood plain is large spanning 3km between the main River Trent and the Newark Branch at the site and thus the effect of local raising would be minimal on flood levels elsewhere with no significant increase in the risk of flooding.

The caravans and gas tanks should be securely chained down to concrete pads to prevent them from floating away during extreme flood events, according to the FRA.

#### Departure/Public Advertisement Procedure

Occupiers of 17 properties have been individually notified by letter. A site notice has also been displayed near to the site and an advert has been placed in the local press.

#### Planning Policy Framework

#### **The Development Plan**

#### **Newark and Sherwood Core Strategy DPD (adopted March 2011)**

Spatial Policy 3 : Rural Areas

Spatial Policy 7 : Sustainable Transport

Core Policy 4 : Gypsies & Travellers and Travelling Showpeople – New Pitch Provision

Core Policy 5 : Criteria for Considering Sites for Gypsy & Travellers and Travelling Showpeople  
Core Policy 9 : Sustainable Design  
Core Policy 10 : Climate Change  
Core Policy 13 : Landscape Character  
Core Policy 14 : Historic Environment

### **Allocations & Development Management DPD (adopted July 2013)**

Policy DM5 – Design  
Policy DM8 – Development in the Open Countryside  
Policy DM9 – Historic Environment  
Policy DM12 – Presumption in Favour of Sustainable Development

### **Other Material Planning Considerations**

- National Planning Policy Framework 2012
- Planning Practice Guidance (on-line facility)
- Planning policy for Traveller sites – August 2015

When determining planning applications for traveller sites, this policy states that planning permission must be determined in accordance with the Development Plan unless material considerations indicate otherwise. The Government's overarching aim is to ensure fair and equal treatment for travellers, in a way that facilitates their traditional and nomadic way of life while respecting the interests of the settled community.

Applications should be assessed and determined in accordance with the presumption in favour of sustainable development and the application of specific policies within the NPPF and this document (Planning policy for traveller sites).

This document states that the following issues should be considered, amongst other relevant matters:

- Existing level of local provision and need for sites;
- The availability (or lack) of alternative accommodation for the applicants;
- Other personal circumstances of the applicant;
- Locally specific criteria used to guide allocation of sites in plans should be used to assess applications that come forward on unallocated sites;
- Applications should be determined for sites from any travellers and not just those with local connections.

The document goes on to state that local planning authorities should strictly limit new traveller site development in open countryside that is away from existing settlements or outside areas allocated in the development plan and sites in rural areas should respect the scale of, and do not dominate the nearest settled community, and avoid placing an undue pressure on local infrastructure.

- Emergency Planning Guidance produced by the Nottingham and Nottinghamshire Local Resilience Forum (December 2012)

This document states: “New developments in flood risk areas must not increase the burden on emergency services. The Emergency Services are in heavy demand during flood incidents. The Fire and Safety Regulations state that “people should be able to evacuate by their own means” without support and aid from the emergency services. The emergency services and local authority emergency planners may object to proposals that increase the burden on emergency services.”

“New development must have access and egress routes that allow residents to exit their property during flood conditions. This includes vehicular access to allow emergency services to safely exit their property during flood conditions.....The emergency services are unlikely to regard developments that increase the scale of any rescue as being safe.”

### Consultations

**Newark Town Council** – Object on the following grounds:

- “1. The site is in a Flood Zone Risk Area 3 which is in one of the highest flood risk categories and the proposed elevation of the land could increase the risk to adjacent sites;
2. The main mitigation proposed for the flood risk is to chain down the mobile homes located on the site; this is not considered to be acceptable given the level of risk and there being only one egress for the site (Tolney Lane);
3. The inclusion of 8 brick built out houses will exacerbate the flooding risk in the surrounding area;
4. The proposal to ensure that there are no moveable items on the site is not credible and will lead to a lack of amenities for any future residents.”

**NCC Highways Authority** – “The application site was the subject of a previous application (12/01088/FUL), and the Highway Authority raised concerns as to whether the proposal would increase traffic congestion at the Great North Road/Tolney Lane junction. Additional information has now come forward and it is considered that these concerns have now been addressed. The site plan submitted indicates that the existing access is to be improved. Therefore, there are no highway objections to this proposal subject to the following:

No part of the development hereby permitted shall be brought into use until the alterations to the existing access have been completed and constructed in accordance with the Highway Authority’s specification.

Reason: In the interests of highway safety.

### Note to Applicant

The development makes it necessary to improve a vehicular crossing over a footway of the public highway. These works shall be constructed to the satisfaction of the Highway Authority. You are, therefore, required to contact VIA, in partnership with Notts. County Council tel: 0300 500 8080 to arrange for these works to be carried out.”

**Environment Agency** – “We **object** to this application because the proposed development falls into a flood risk vulnerability category that is inappropriate to the Flood Zone in which the application site is located. We recommend that the application should be refused planning permission on this basis.

#### Reasons

Technical Guidance to the National Planning Policy Framework classifies development types according to their vulnerability to flood risk and gives guidance on which developments are appropriate in each Flood Zone. In this case the application site lies within Flood Zone 3a and on the edge of functional floodplain defined by the Technical Guide to the NPPF as having a high probability of flooding.

The development type in the proposed application is classified as Highly Vulnerable in accordance with table 2 of the Planning Practice Guidance to the NPPF. Tables 1 and 3 of the Planning Practice Guidance to the NPPF make clear that this type of development is not compatible with this Flood Zone and should not therefore be permitted.

#### **Overcoming Our Objection**

The development is located in the floodplain of the River Trent is at high risk of flooding. The flood depths on site in comparison to existing conditions could range from 200mm to 1.1 metres. The flood depths on the access adjacent to the site are 1.4 metres and it has been accepted that there is no safe means of access and egress during a flood event for the occupants or emergency services if required to access the site.

There are recommendations to raise platform levels above the 1000 year flood level, and although we would support this in terms of making the new development safe, we do not agree with the conclusion that the loss of floodplain storage does not require compensation. The cumulative impacts of losing floodplain storage can have a significant impact and therefore any new development in the floodplain should look to mitigate their impacts by providing level for level floodplain compensation.

To overcome this objection, the LPA would need to consider the appropriateness of the development to the Flood Zone. If the LPA do consider the development appropriate then we recommend floodplain compensation is provided on a level for level basis. We also recommend NSDC contact their Emergency Planner to review the Emergency Plan. The flood depths on site and adjacent to the site will still pose significant risk to life and therefore the development does not comply with the requirements of the NPPF Planning Practice Guidance. Mitigation to overcome this will need to be considered and we do not support the recommendation of 5.5.3 for occupants to be isolated within the caravans until waters receded, as the Trent will be in flood for a long duration (potentially in excess of a week) and therefore loss of services could pose a significant risk to life.”

**Trent Valley Internal Drainage Board** – “There are no board maintained watercourses in close proximity to the site. Surface water run-off rates to receiving watercourses must not be increased as a result of the development. The design, operation and future maintenance of site drainage systems must be agreed with the Lead Local Flood Authority and Local Planning Authority.”

**NSDC, Planning Policy** – “The main policy considerations to be made in assessing this application are the planning status of the applicants as Gypsies and Travellers (G&T) and the balance between the need for G&T pitches and the sites flood risk status.

To consider a site against the current G&T policy, the intended occupants need to satisfy the planning definition contained within PPTS. As this proposal appears to be intended to provide for the needs of a specific family, rather than being speculative, it will be necessary to establish if the definition is satisfied. The statement accompanying the application offers some information but further clarification would appear necessary. The following advice is based on the assumption that the definition is satisfied.

The FRA accompanying the application identifies the site as being within EA defined Flood Zones 2 and 3 with the access back to adoptable highway also being at varying degrees of flood risk. The appropriate sequential test is therefore whether there are any other G&T sites available at lesser risk of flooding. The Council does not currently have a 5 year supply and so cannot identify any available sites at lesser risk of flooding. This situation could however change over the life of this application.

An appeal decision is imminent on a site that would deliver 12 pitches. If this is allowed, in combination with planning permissions already granted, it would meet the pitch requirement for the current 5 year period of 2013 to 2018 and give approximately 1 years supply into the next period.

The Development Plan is currently being reviewed and the next stage – Preferred Approach - Sites due to begin public consultation in January 2017 is aiming to allocate site(s) to meet the pitch need for the remainder of the plan period.

It will be necessary to revisit the above issues at the time of determining this application to make an as accurate as possible assessment of need.

## **CONCLUSION**

If at the time of determination there is no 5 year supply it will be necessary to balance need for pitches against flood risk in a similar manner to other recent applications/appeals for G&T pitches on Tolney Lane. I would suggest that the closer the Council is to demonstrating a 5 year supply of pitches at lesser risk of flooding, the less justification there is for allowing permanent pitches in areas at high risk of flooding. In one appeal on another site on Tolney Lane, an Inspector granted a temporary consent that recognised the appellant's immediate accommodation needs and the high flood risk status of the site by allowing for the possibility of sites at lesser risk of flooding to be identified during the duration of the temporary consent. This approach has been reflected in a planning approval on a further site on Tolney Lane and may be appropriate here."

**NSDC, Environmental Health** – "I would expect the design of this site should follow the recommendations in the government's guide – Designing Gypsy and Traveller Sites – Good Practice Guide.

If approved this site would need a Caravan site licence from Environmental Health, unless exempted this would be chargeable and the holder would need to pay an annual fee to maintain any licence issued.

Conditional within the site licence would be such issues as spacing between caravans and boundaries, firefighting provision, site access, water supply and waste disposal.

The design and access statement states the homes will be positioned a minimum of 1m from the boundary. The homes must be more than 3m from the site boundary with a separation distance between each home of 6m where they are in separate occupation. The proposed site plan shows the drainage and amenity block arrangements should comply with the licence conditions imposed.

The Before and After Tidy Up photographs are evidence of materials once deposited on the site and the materials/soils used to raise levels are of unknown quality. Given the potential for contamination and this sensitive residential use, I would request a contamination condition to ensure the safe use of the land.”

**NSDC, Access and Equalities Officer** - It is recommended that the developer be advised to give consideration of inclusive access to and around the proposal. Access to available facilities and features should be carefully considered.

**Representations have been received from two local residents/interested parties which can be summarised as follows (one anonymous response has been received but is not included below):**

- This site is in Flood Zone 3;
- Any increase in surface water run-off to the surrounding areas would create a danger and increase the flood risk;
- The proposal to anchor caravans by chaining them down would not be sufficient to protect the safety of the occupants or nearby residents in the event of a flood, which is a distinct possibility;
- More suitable and safer sites should be found for the gypsy traveller community;
- To provide more accommodation for travelers can only be a good thing;
- Clean- up should be carried out ecologically responsibly;
- Street lighting on Tolney Lane is erratic and should be improved in the interests of highway safety as traffic will increase;
- Provision for pedestrian safety should also be introduced, the lane seems to be used as a racing track;
- Vehicles stopping outside Church View should also be prevented like some plant pots to narrow the lane.

#### Comments of the Business Manager

The main planning considerations in the assessment of this proposal are the need for gypsy and traveller sites, flood risk, the planning history of the site, the impact on the character of the area, highway issues, access to and impact on local services, residential amenity for occupants of the application site and neighbouring sites and the personal circumstances of the applicant.

#### The Need for Gypsy and Traveller Pitches

The NPPF and the Government’s ‘Planning policy for traveller sites’ requires that Local Planning Authorities maintain a rolling five year supply of specific deliverable Gypsy & Traveller sites together with broad locations for growth within 6-10 years and where possible 11-15 years. Government policy states that a lack of a five year supply should be a significant material consideration in any subsequent planning decision when considering applications for the grant of planning permission.

Core Policy 4 (CP4) set a district wide target of 84 pitches to be provided up to 2012. 93 pitches were provided over this period and since that time work has been progressing on a new assessment of need and approach to meeting this. The Council initially intended to produce a separate Gypsy and Traveller DPD but now propose to include this within the review of the development plan. Public consultation on the Plan Review Issues Paper took place between 5th October and 16th November 2015.

The Issues Paper identifies a requirement for 25 permanent pitches in the period 2013-2018. Four pitches have been delivered through the grant of permanent planning permission which leaves a requirement for 21 pitches. There are currently no other sites with planning permission, no allocated sites and consequently the Council does not have a five year supply of sites.

Whilst the Plan Review may ultimately yield a new approach to the provision and distribution of Gypsy and Traveller sites, in determining this application now the main considerations have to include the lack of other available sites, which is a material consideration that needs to be given significant weight in the determination of this application.

I am also mindful of the appeal decision relating to a gypsy and traveller site at Green Park, Tolney Lane, which was granted temporary planning permission for 5 years in light of the fact that the Council could not demonstrate alternatively available sites. In the more recent appeal at Edingley, it was acknowledged that the Council could not demonstrate a 5 year land supply but was working towards a Gypsy and Traveller DPD which would consider allocating sites to meet the identified need and that individual applications should not pre-empt this process. The Inspector noted that National Planning Practice Guidance (NPPG) sets out guidance when determining planning applications. It confirms that the Framework explains how weight may be given to policies in emerging plans. However in the context of the Framework and in particular the presumption in favour of sustainable development it states that arguments that an application is premature are unlikely to justify a refusal of planning permission. Preferred sites will be brought forward during the Plan Review process that is currently on-going.

I would also recall to Member's attention the application at Newark Road, Wellow (15/00457/FUL) for 8 pitches that is currently under consideration at appeal.

The absence of a five year supply of deliverable sites represents a material consideration in favour of the proposal. However this needs to be considered and balanced alongside other material planning considerations in coming to a determination.

### Flooding

The description of development refers not only to a new use but also to the lowering of land levels to 10.5m AOD. In contradiction, however, the submitted FRA has been written on the basis of existing land levels being lowered to 11.48m AOD and stone gabions being placed on the site to raise the caravans. Both scenarios are considered below.

The final criterion of Core Policy 5 states that 'in the case of any development proposal which raises the issue of flood risk, regard will be had to advice contained within PPS 25: Development and Flood Risk and the findings of the Newark and Sherwood Strategic Flood Risk Assessment. Where flooding is found to be an issue, the District Council will require the completion of a site specific Flood Risk Assessment'. The NPPF states that local planning authorities should minimise risk by directing such development away from high risk areas to those with the lowest probability

of flooding. Policy DM5 also states that the Council will aim to steer new development away from areas at highest risk of flooding.

Notwithstanding the weight to be given to need referred to above, the application site is located within Flood Zone 3a, at high risk from flooding and on the edge of functional floodplain of the River Trent. It is therefore essential that the Local Planning Authority balance the benefits of meeting this need against flood risk.

Table 2 of the Planning Practice Guidance to the NPPF states that caravans, mobile homes and park homes intended for permanent residential use are classified as “highly vulnerable” uses. Table 3 of the Technical Guidance states that within Flood Zone 3a, highly vulnerable classification development should not be permitted. Tables 1 and 3 of the Planning Practice Guidance make it clear that this type of development is not compatible within this Flood Zone and should therefore not be permitted.

The NPPF states that local planning authorities should minimise risk by directing inappropriate development away from high risk areas to those with the lowest probability of flooding. However, given that this represents vulnerable development that should not be permitted in the first instance, the Sequential and Exception Tests do not fall to be applied to this type of proposal. Even if the Sequential and Exception Tests were applicable (which they are not) whilst the Sequential Test may be considered passed, on the basis that there are no reasonably available alternative sites for this use at lower risk, the proposal fails the Exception Test, if it were appropriate to apply it. There are two parts of the Exception Test set out in the NPPF:

- It must be demonstrated that the development provides for wider sustainability benefits to the community that outweigh flood risk, informed by a Strategic Flood Risk Assessment where one has been prepared; and
- A site specific flood risk assessment must demonstrate that the development will be safe for its lifetime taking account of the vulnerability of its users, without increasing flood risk elsewhere.

Firstly, whilst it is accepted that the development would provide some wider sustainability benefits to the community, in terms of the occupants of the site being able to access schools, hospitals and other services within the Newark Urban Area, this does not outweigh the severity of the harm caused to that same community by the high flood risk at the site and the harm to the wider community in retaining some of the unauthorised tipping on the land, thereby continuing to represent a loss of flood storage capacity within the functional floodplain of the River Trent, and which will inevitably lead to increased flooding impact elsewhere in the wider area. This harm has already been established through the appeal process. There is no evidence submitted of any mitigation for this impact by providing level for level floodplain compensation elsewhere.

Secondly, the Environment Agency states that the flood depths on the site in comparison to existing conditions would range from 200mm to 1.1metres. The flood depths on the access adjacent to the site are 1.4 metres and it has been accepted that there is no safe means of access and egress during a flood event for the occupants or emergency services, if required to access the site. This would be the case if the land levels on the site were reduced to 10.5m AOD or 11.48m AOD.

Members may be aware of the evacuation procedures that have been put in place for existing occupiers of Tolney Lane where residents are allowed to assemble on the cattle market during a flood event. However, this evacuation plan is not ideal and was introduced to try to provide a



solution to occupants that already existed along Tolney Lane. It should not be seen as an appropriate mitigation strategy when considering new pitches along the Lane. The Environment Agency have stated that the submitted FRA has made no assessment of the flood risk along Tolney Lane, the only route in and out of the site, nor does the FRA address issues of the impact of the additional residents attempting to egress the site along an already heavily used egress route.

Emergency Planning Guidance produced by the Nottingham and Nottinghamshire Local Resilience Forum referred to in the other material considerations section above, represents standing advice, material to the consideration of this application and it raises significant concerns in relation to any new development that would increase the burden on emergency services as it is likely that even with an evacuation plan in place, emergency services would still have to go along Tolney Lane to ensure total evacuation had occurred and granting planning permission for additional pitches will exacerbate the need for this checking procedure and therefore increase the danger of the situation for all.

The flood depths on site and adjacent to the site will still pose significant risk to life and therefore the development does not comply with the requirements of the Planning Practice Guidance. Mitigation to overcome this will need to be considered and there is no support for the recommendation of 5.5.3 for occupants to be isolated within the caravans until waters receded, as the Trent will be in flood for a long duration (potentially in excess of a week) and therefore loss of services could pose a significant risk to life.

Whilst Members have accepted evacuation procedures are sufficient to allow proposals to go ahead on other Tolney Lane sites in the past, as has a Planning Inspector on a 5 year temporary basis, it remains my professional view that the principle of locating this highly vulnerable use in an area at high risk from flooding is not appropriate and should not be permitted, in accordance with the PPG of the NPPF. This is relevant to both scenarios.

The scheme set out within the FRA retains some of the unauthorised tipping that currently remains on the site, and so would continue to result in a loss of flood storage within the functional floodplain and therefore continues to exacerbate flooding risk elsewhere.

Whilst reducing the land levels of the site to 10.5mAOD is likely to return the flood storage capacity of the floodplain to its previous capacity, the use still remains a highly vulnerable use on land at high risk of flooding, which cannot be adequately mitigated against through chaining down structures or an Evacuation Plan and occupiers would be at risk.

It is therefore considered that the proposal, under both scenarios, is contrary to the NPPF (and its PPG), Core Policies 5 and 10 of the Core Strategy and Policy DM5 of the Allocations and Development Management DPD.

The Plan Review will seek to identify and provide appropriate and suitable sites for new pitches moving forward to service local need.

### Planning History

This Council has already considered the principle of a residential caravan use on this site in 2002 and 2013. The first application was refused on the following grounds:

*“The site lies within the defined washlands of the River Trent a high risk zone according to paragraph 30(3) of Planning Policy Guidance Note 25 and is subject to known periodic flooding. In the opinion of the Local Planning Authority, any development of the site that includes the raising of ground levels, or the placing of fixed structures would aggravate the existing problem of flood defence/land drainage in this locality. As a consequence, the loss of this washland storage area would lead to additional properties in the locality having a greater probability and risk of flooding, which would not be in the interest of proper planning. This proposal is therefore considered to be contrary to policy PU1 of the Newark and Sherwood Local Plan and the advice contained in Planning Policy Guidance Note 25 'Development and Flood Risk' July 2002, specifically paragraph 70.”*

Two enforcement notices were served which sought to firstly cease the use as a caravan site and remove all caravans from the land and secondly to remove the unauthorised tipping from the land so that no part of the site is above the level of 10.5 AOD. The applicant appealed to the Planning Inspectorate and the appeals were dismissed. The Inspector concluded:

*“I fully understand that the occupants of the site would make sure they were well aware of any imminent flooding and, because of their experience of travelling, they could vacate the site quickly, if necessary. However, this does not address the concerns about the continuing availability of functional flood plain, and the consequences of development for flood control over a wider area.”*

This identical application was considered by the Planning Committee in 2013 and refused for the following reason:

*“The proposed development represents highly vulnerable development that would be located within Flood Zone 3 and therefore should not be permitted in accordance with the National Planning Policy framework and its Technical Guidance. Whilst the Sequential and Exception Tests do not fall to be applied in this case, even if they were applicable (which they are not), whilst the Sequential Test may be considered to be passed on the basis that there are no reasonably available alternative sites for this use, the proposal fails the Exception Test. The submitted Flood Risk Assessment does not comply with the requirements sets out in paragraph 9 of the Technical Guidance to the NPPF and therefore fails to adequately demonstrate that the development will be safe for its lifetime, without increasing flood risk elsewhere.*

*In the opinion of the Local Planning Authority, the proposal would therefore place both the occupants of the site and the wider area at risk from flooding and be contrary to the National Planning Policy Framework and its Technical Guidance, Core Policies 5 and 10 of the Newark and Sherwood Core Strategy and saved Policy PU1 of the Newark and Sherwood Local Plan.”*

The proper consideration of such a use in this location has already been considered and found to be unacceptable on flooding grounds both by this Council and the Planning Inspectorate. The Enforcement Notices served remain on the land, although the removal of the tipping has not been carried out. Since this decision in 2005, Tolney Lane has experienced another significant flood event in November 2012, which has only served to affirm the difficulties of allowing such development in this high risk area.

#### Impact on the character of the area

The first of the criteria under Core Policy 5 states that ‘the site would not lead to the loss, or adverse impact on, important heritage assets, nature conservation or biodiversity sites’.

Criterion 5 of Core Policy 5 states that the site should be 'capable of being designed to ensure that appropriate landscaping and planting would provide and maintain visual amenity'.

The site is within the open countryside. The aim of conserving the natural environment, protecting valued landscapes, minimising impacts on biodiversity and pollution is reflected in the NPPF. Whilst development exists along the majority of the Lane, only the eastern third sits within the defined Newark Urban Area. The application site is located between the sites known locally as Church View to the east and Hoes Farm to the east. Church View benefits from an authorised use for 35 residential caravans although it is currently only occupied by approximately 3 caravans. Hoes Farm has planning permission for 25 pitches. Whilst the site is located within the countryside, it is sandwiched between these two sites which are authorised for caravan use and the application site itself is already covered by hard surfacing. The proposed development is for the creation of 8 pitches with 8 associated that would be enclosed and defined by close boarded timber fencing. The FRA states that the floor level of the proposed caravans would be set at 12.91m AOD, which would be 1.43m above the ground level of 11.48m AOD, perched on stone gabions. The appearance of the caravans would therefore be slightly unusual, and access would necessitate steps. Although the stone gabions are not likely to be readily visible, given proposed boundary treatments, the increase in height of the caravans would make them more prominent and slightly odd compared to the height of existing caravans in the area. However, having carefully considered this visual impact, on balance and given the existing character of the area, it is not considered that this would be so visually intrusive and incongruous to warrant refusal of permission on this basis.

Taking all these matters into consideration, I am satisfied that the proposal is unlikely to represent a significant visual intrusion that would have such a harmful impact on the appearance of the countryside in this location, to warrant refusal of planning permission in this case. However, I would recommend a condition be attached to any approval for additional landscaping works to soften the appearance of the development. I also acknowledge that the site has no special landscape designation and is unlikely to lead to any significant adverse impact on nature conservation or biodiversity.

Although the Newark Conservation Area boundary runs along the south-eastern side of Tolney Lane, it is approx. 100m from the boundary and as such, it is not considered that the proposal would be harmful to the setting of the Conservation Area.

The proposal is considered too broadly accord with Local Plan and National Framework Policies in this regard.

### Highway Issues

Criterion 3 under Core Policy 5 requires the site has safe and convenient access to the highway network.

Spatial Policy 7 states that development proposals provide safe, convenient and attractive accesses for all, including the elderly and disabled, and others with restricted mobility, and provide links to the existing network of footways, bridleways and cycleways, so as to maximise opportunities for their use. Proposals should provide appropriate and effective parking provision, both on and off-site, and vehicular servicing arrangements. Proposals should ensure that vehicular traffic generated does not create new, or exacerbate existing on street parking problems, nor materially increase other traffic problems.

The Highway Authority has raised no objection to this application and it is considered that the proposal would not result in any significant highway implications and the proposal accords with the Local Plan and National Framework Policies in this respect.

#### Access to and Impact on Local Services

The second of the criteria under Core Policy 5 is that 'the site is reasonably situated with access to essential services of mains water, electricity supply, drainage and sanitation and to a range of basic and everyday community services and facilities – including education, health, shopping and transport facilities'.

Whilst the site lies within the countryside, it is acknowledged that it is in relative close proximity to the edge of existing development. Occupiers would have good access to existing Tolney Lane development and to existing services and facilities provided by the Newark Urban Area. The site is ideally located between two established Gypsy and Traveller sites and therefore access to long established community and social facilities associated with the historic use of Tolney Lane would be readily available for occupiers.

Taking the above factors into consideration, the application site is reasonably located in terms of access to the range of amenities and services and as such would be relatively sustainable.

#### Residential Amenity

Criterion 4 of Core Policy 5 states 'the site would offer a suitable level of residential amenity to any proposed occupiers and have no adverse impact on the amenity of nearby residents'.

Policy DM5 requires the layout of development within sites and separation distances from neighbouring development to be sufficient to ensure that neither suffers from an unacceptable reduction in amenity including overbearing impacts, loss of light and privacy.

The size of the proposed pitches are reasonable, measuring approx. 300 square metres in area and I am satisfied that with boundary fencing in place that the sites would offer a suitable level of amenity to proposed occupiers. There would be no negative impact on residential amenity of any existing properties.

The proposals therefore meet the requirements of Criterion 4 of Core Policy 5 and Policy DM5.

#### Personal Circumstances

The Government's new 'Planning Policy for Traveller sites' (August 2015) introduced following the submission of this application requires a revised assessment of Gypsy and Traveller status. Annex 1 of the document sets out the definition of gypsy and traveller for the purposes of the policy as follows:

'Persons of nomadic habit of life whatever their race or origin, including such persons who on grounds only of their own or their family's or dependants' educational or health needs or old age have ceased to travel temporarily, but excluding members of an organised group of travelling showpeople or circus people travelling together as such.'

The guidance states that in determining whether persons are “gypsies and travellers” for the purposes of this planning policy, consideration should be given to the following issues amongst other relevant matters:

- a) whether they previously led a nomadic habit of life
- b) the reasons for ceasing their nomadic habit of life
- c) whether there is an intention of living a nomadic habit of life in the future, and if so, how soon and in what circumstances.

In order for appropriate weight to be given to the unmet need for Gypsy and Traveller pitches in the consideration of these proposals, the onus is on the applicant to prove that the applicant along with any other occupier of the site, have Gypsy and Traveller status in accordance with the definition set out in the Planning Policy for Travellers Sites.

The submitted Design and Access Statement states that the applicant and his family are a local family of travellers who have lived within the local area/community for a number of years. It also states that they have been travelling from site to site for a number of years residing in some cases on land which was not designated for this land use. It confirms that the applicant wishes to accommodate himself and his wider family on this site whilst the remainder of the pitches would be used by other travellers who need accommodation. Some old black and white photographs have been provided showing a family with the Price surname camped in various places two of which refer to Bury St Edmunds.

Very little information has been submitted in this regard to date, although it has been requested. As such, this recommendation to Committee is based on that fact that their status is not proven, however, this may alter in the submission of any additional information and any update will be reported at Planning Committee.

#### Conclusions and Balancing Exercise

The NPPF and the PPG is an up to date policy that clearly and explicitly states that this highly vulnerable use should not be permitted within Flood Zone 3a and under these circumstances the Sequential and Exception Test would not be applicable.

Whilst the Sequential and Exception Tests do not fall to be applied in this case, even if they were applicable (which they are not), whilst the Sequential Test may be considered to be passed on the basis that there are no reasonably available alternative sites for this use, the proposal fails the Exception Test, failing to demonstrate that the development would be safe for its lifetime, without increasing flood risk elsewhere, and this would be the case if land levels were reduced in accordance with the description of the development or if land levels were reduced in accordance with the submitted FRA.

Since the up-holding of the Enforcement Notices in 2005, it is clear that whilst flood risk has remained of paramount importance as a material consideration, unmet need and the lack of reasonable deliverable alternative sites and a 5 year supply has significantly increased significance as a material consideration more recently. This is borne out in the Green Park appeal decision, where a temporary permission was approved notwithstanding the flood risk.

At present there is an unmet need for Gypsy and Traveller pitches within the District. National policy and guidance dictates that such an unmet need, lack of a 5 year supply and deliverable

alternative sites carries significant weight in favour of the proposal. However, very little supporting information has been provided on the gypsy and traveller status of the applicant or proposed occupiers of the site. In the absence of this demonstration, the onus of which is on the applicant to provide, it is considered that positive weight cannot be afforded to this material consideration, in contrast to the Green Park application. As such it is not considered that a permanent or temporary permission would be deemed acceptable in this particular case.

Whilst the remaining material planning considerations (impact on the countryside and character of the area, residential amenity, highway considerations and access to services) assessed in this report appear to represent positive weight to this proposal, in the professional view of officers, the harm caused by locating this development within an area at high risk of flooding does not and cannot be outweighed in the overall planning balance. It is therefore recommended that the application be refused on flooding grounds.

## **RECOMMENDATION**

**That full planning permission is refused for the following reason**

### **Reason for Refusal**

01

The proposed development represents highly vulnerable development that would be located within Flood Zone 3 and therefore should not be permitted in accordance with the National Planning Policy Framework and the PPG. Whilst the Sequential and Exception Tests do not fall to be applied in this case, even if they were applicable, whilst the Sequential Test may be considered to be passed on the basis that there are no reasonably available alternative sites for this use, both scenarios of the proposal (i.e. lowering the land levels in accordance with the description of development or the carrying out development in line with the Flood Risk Assessment) fail the Exception Test. The submitted Flood Risk Assessment does not comply with the requirements set out in the Site Specific Flood Risk Assessment Checklist (paragraph 68) of the Flood Risk and Coastal Change Section of the Planning Practice Guidance and therefore fails to adequately demonstrate that the development will be safe for its lifetime, without increasing flood risk elsewhere. Even with the lowering of land levels to 10.5m AOD (which has not been adequately demonstrated through the submitted FRA), the proposed use would not be safe for its lifetime.

In the opinion of the Local Planning Authority, the proposal would therefore place both the occupants of the site and the wider area at risk from flooding and be contrary to the National Planning Policy Framework and the Planning Practice Guidance, Core Policies 5 and 10 of the Newark and Sherwood Core Strategy and Policy DM5 of the Allocations and Development Management DPD.

### **Notes to Applicant**

01

You are advised that as of 1st December 2011, the Newark and Sherwood Community Infrastructure Levy (CIL) Charging Schedule came into effect. Whilst the above application has been refused by the Local Planning Authority you are advised that CIL applies to all planning permissions granted on or after this date. Thus any successful appeal against this decision may therefore be subject to CIL (depending on the location and type of development proposed). Full details are available on the Council's website [www.newark-sherwooddc.gov.uk/cil/](http://www.newark-sherwooddc.gov.uk/cil/)

The application is clearly contrary to the Development Plan and other material planning considerations, as detailed in the above reason(s) for refusal. However the District Planning Authority has worked positively and proactively with the applicant to make some revisions to the proposal. Unfortunately these revisions have been unsuccessful in removing the harm identified through the above reason for refusal.

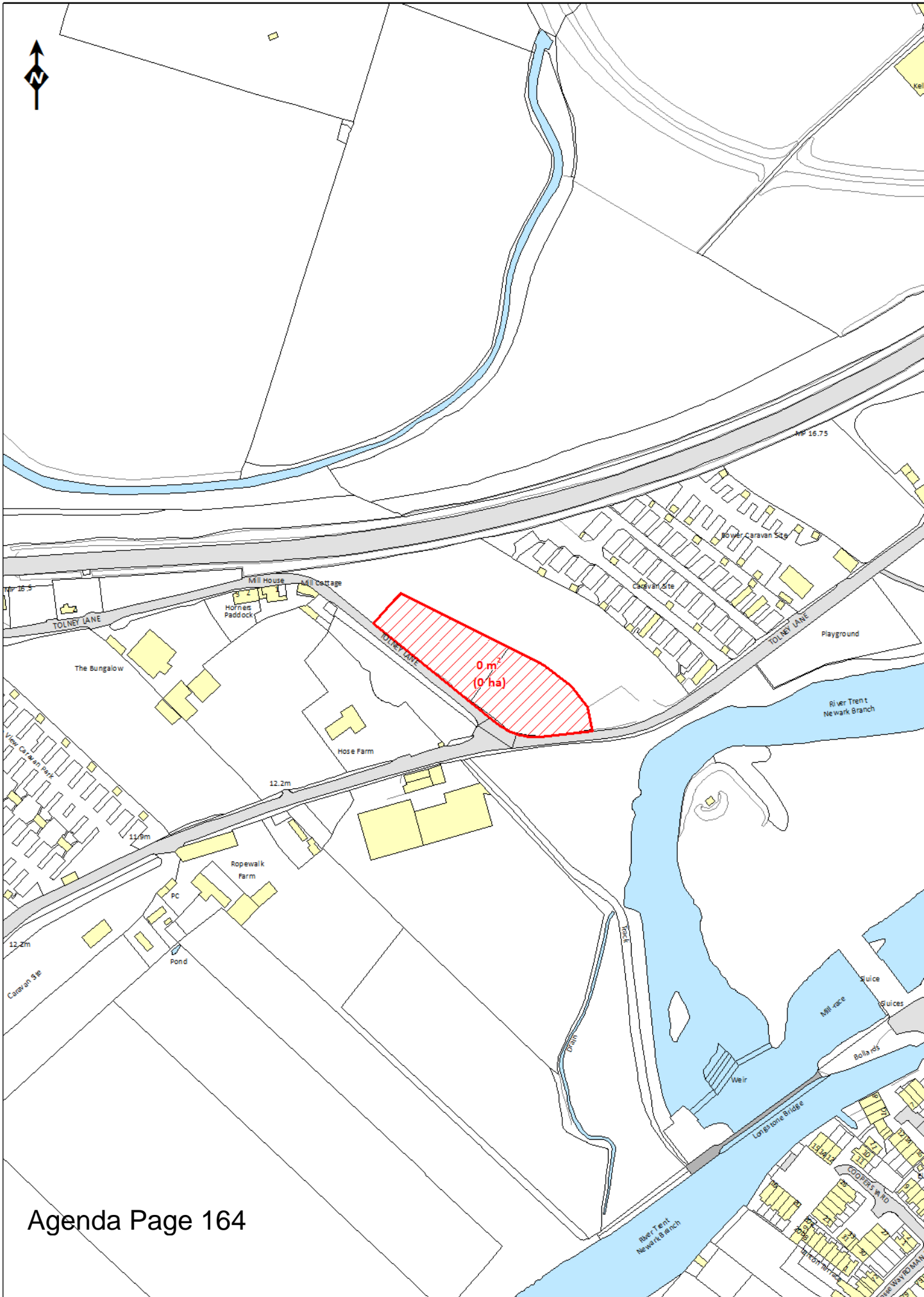
Background Papers

Application case file.

For further information, please contact Julia Lockwood on ext 5902.

All submission documents relating to this planning application can be found on the following website [www.newark-sherwooddc.gov.uk](http://www.newark-sherwooddc.gov.uk).

**Kirsty Cole**  
**Deputy Chief Executive**





<b>Application No:</b>	<b>17/01118/FUL</b>
<b>Proposal:</b>	<b>Extension and conversion of existing barn to rear garden of 1 Post Office Lane</b>
<b>Location:</b>	<b>1 Post Office Lane, South Scarle</b>
<b>Applicant:</b>	<b>Mrs Constance Noble</b>
<b>Registered:</b>	<b>28 June 2017</b>
	<b>Target Date: 23 August 2017</b>
	<b>Extension of time agreed until 19 January 2018</b>

**This application is being referred to the Planning Committee for determination by the local ward member (Cllr Dobson) as the majority at the Parish Council meeting voted against the proposal and due to concerns with regards to amenity, drainage and noise.**

### The Site

The application site relates to a currently vacant two storey detached L-shaped dwelling located at the junction of Post Office Lane and Main Street and its associated residential curtilage which extends along Post Office Lane, sited within the village of South Scarle and within the Conservation Area.

The site comprises the host dwelling together with a detached outbuilding, barn and an orchard. It is bounded by hedging and mature trees to the Post Office Lane boundary and the side and rear boundaries. Part of the northern boundary is formed by an adjoining neighbouring barn.

The immediately surrounding area generally comprises two storey dwellings and barn conversions.

### Relevant Planning History

17/01137/FUL – Erection of two storey house rear of 1 Post Office Lane, new access off Post Office Lane and alterations to existing kerbs on Main Street. This was refused under delegated powers on the 31 October 2017 on the grounds of lack of sustainability and impact on neighbouring amenity.

16/01038/FUL - Change of use of existing barn to form dwelling including single storey extension, altered access from Post Office Lane (Resubmission of 16/00052/FUL). This was refused at Planning Committee on the 13.09.16 on the grounds of lack of sustainability, impact on highway safety by virtue of lack of visibility splay from the access and the failure to demonstrate the safeguarding of protected species. An additional reason was attached by Members in relation to the development resulting in the lack of appropriately sized amenity area for the host dwelling.

16/00052/FUL - Conversion and extension of barn to form 1 No. house and erection of 1 No. house with access from Post Office Lane. This was refused in April 2016 under delegated powers on the grounds of lack of sustainability, impact on highway safety by virtue of lack of visibility splay from the access and the failure to demonstrate the safeguarding of protected species.

PREAPP/00152/15 - Proposed barn conversion and new house.

## The Proposal

The current proposal seeks planning permission for the conversion and extension of an existing detached barn on the site to form an independent dwelling.

Following the submission of revised plans the proposed extension to the existing barn would have maximum dimensions of circa 4.7m in depth and 6m in width with a ridge height of 4.3m which is set circa 1.7m below that of the existing barn. The extension and conversion would create a 2 bedroom dwelling.

The development currently proposed differs from that previously refused in September 2016 which proposed an extension with maximum dimensions of 6m depth and 8m width and a ridge height that sat just below that of the existing barn. The other changes to the application are the proposed alterations to the access to Post Office Lane which includes provision of an increase visibility splay and passing facilities and the submission of a bat survey.

## Departure/Public Advertisement Procedure

Occupiers of fourteen properties have been individually notified by letter. A site notice has also been displayed near to the site and an advert has been placed in the local press.

## Planning Policy Framework

### The Development Plan

#### **Newark and Sherwood Core Strategy DPD (adopted March 2011)**

Spatial Policy 1 – Settlement Hierarchy  
Spatial Policy 2 – Spatial Distribution of Growth  
Spatial Policy 3 – Rural Areas  
Core Policy 9 - Sustainable Design  
Core Policy 10 - Climate Change  
Core Policy 12 - Biodiversity and Green Infrastructure  
Core Policy 14 - Historic Environment

#### **Allocations & Development Management DPD**

Policy DM4 – Renewable and Low Carbon Energy Generation  
Policy DM5 – Design  
Policy DM7 – Biodiversity and Green Infrastructure  
Policy DM9 – Protecting and Enhancing the Historic Environment  
Policy DM12 – Presumption in Favour of Sustainable Development

### Other Material Planning Considerations

- National Planning Policy Framework 2012
- Planning Practice Guidance 2014
- SPD: Conversion of Traditional Rural Buildings, adopted November 2014

## Consultations

**South Scarle Parish Council** – Neutral observations.

**NCC Highways Authority** – Previous concerns about the safety of the junction of Post Office Lane and Main Street to accommodate additional vehicle trips have been addressed by the proposal to improve the visibility at this junction by kerb realignment in accordance with drawing SK004.

Subject to the following condition no objections are raised:

- No development shall commence on any part of the application site unless or until improvements to the Post Office Lane/Main Street junction have been made as illustrated by drawing SK004 to realign the kerblines & thereby enhance junction visibility to the satisfaction of the Local Planning Authority.

Reason: In the interests of highway safety.

**NSDC Conservation Section** – Conservation was consulted on the previous proposal 16/01038/FUL which was refused on non-conservation related matters. Previously Conservation did not object to the application and stated:

‘The revised scheme has removed the new dwelling and now seeks only to adapt and extend the barn. The extension proposed is subservient with appropriate detailing, and the conversion scheme is otherwise considered to positively retain the interest of the historic barns. Conservation considers the retention of the barn and sensitive conversion to be a positive feature of the proposal.’

The resubmission of the application is not considered to be significantly altered from the previous proposal, and as such Conservation reaffirms its consideration that the conversion and extension of the barn would not result in harm to the host dwelling, the outbuildings or the character of the conservation area. Since the previous submission in 2016, there has been no identified significant alterations to the wider setting of the application site, Post Office Farm or the conservation area as a whole. As such, the proposal remains consistent with Conservation’s approach as identified by saved local policies and the NPPF.

In this context, the proposal is not considered to cause harm to the character of the conservation area. The proposal therefore is in accordance with the objective of preservation set out under sections 72, part II of the 1990 Listed Building and Conservation Areas Act, and complies with heritage policies and advice contained within the Council’s LDF DPDs and section 12 of the NPPF.

If the application is approved, Conservation recommends conditions to preserve the character of the conservation area.

**NSDC Equalities and Access Officer** - As part of the developer’s considerations of inclusive access and facilities for all, with particular reference to disabled people, it is recommended that their attention be drawn to Approved Document M of the Building Regulations, which contain useful standards in respect of visitable, accessible and adaptable, and wheelchair user dwellings and contains useful information in this regard.

It is recommended that homes are accessible to residents and visitors' alike as well as meeting residents' changing needs, both temporary and longer term. Similarly, inclusive access improves general manoeuvrability for all including access for those with push chairs and baby buggies as well as disabled people etc.

To this end, it is recommended that inclusive access to, into and around the proposal be carefully examined from the edge of the site and car parking together with provision of suitable accessible facilities and features and that consideration be given their incorporation as far as is reasonably practicable to ensure that the proposal is equally convenient to access and use. Step-free approach, ramps, level flush thresholds, generous doorways, all carefully designed to facilitate easy access and manoeuvre on all floors are important considerations. Switches and sockets located at suitable heights and design to assist those whose reach is limited to use the proposal together with suitable accessible WC and sanitary provision etc. are important considerations. It is recommended that the developer make separate enquiry regarding Building Regulations matters.

**NSDC Environmental Health** - This application includes the conversion of a barn to residential use and there lies the potential for this to have been used for a variety of activities. It would depend on what specific activities have been carried out to consider the implications, if any, for contamination of the site. The applicant/developer will need to have a contingency plan should the construction/conversion phase reveal any contamination, which must be notified to the Proactive Team in Environmental Health at Newark and Sherwood District Council on (01636) 650000.

**Nottinghamshire Wildlife Trust** – We are pleased to note that a Protected Species Survey (CBE Consulting, February 2016) has been undertaken as this allows consideration of protected species.

The report is clear that the building was considered to offer 'low' roost potential and that a single bat activity survey was required to fully ascertain the status of the building with respect to roosting bats. We recommend that the LPA requests that this work is undertaken before the application is determined. Paragraph 99 of Government Circular 1/2005 (also known as ODPM Circular 06/2005) (which accompanied PPS9, but remains in force), states that: 'It is essential that the presence or otherwise of protected species, and the extent that they may be affected by the proposed development, is established before the planning permission is granted, otherwise all relevant material considerations may not have been addressed in making the decision. The need to ensure ecological surveys are carried out should therefore only be left to coverage under planning conditions in exceptional circumstances, with the result that the surveys are carried out after planning permission has been granted.' Following the survey, any necessary measures for avoidance, mitigation and/or compensation should be secured through use of a planning condition.

**On receipt of the survey** - Thank you for re-consulting Nottinghamshire Wildlife Trust on the above. We are pleased to note that following our previous comments, the required bat survey work has now been completed (CBE Consulting, October 2017). The nocturnal survey was carried out quite late in the season for such work, however weather conditions were considered suitable. No bats were recorded emerging from the building and therefore should not pose a constraint to the proposed development. A small amount of bat foraging was recorded, thus any enhancement measures for bats (e.g. inclusion of artificial roost opportunity, planting native species) would be welcomed.

**Trent Valley Internal Drainage Board** - The site is outside of the Board's district but within the Board's catchment. There are no Board maintained watercourses in close proximity to the site.

Surface water run-off rates to receiving watercourses must not be increased as a result of the development.

**Representations have been received from 8 local residents which can be summarised as follows:**

- Traffic issues and highway safety concerns, including poor access and visibility;
- Alteration to access insufficient to mitigate risk of collision;
- Alteration to junction will narrow Main Street causing hazard;
- Increasing cars using Post Office Lane;
- Restricted access down Post Office Lane;
- South Scarle is not a sustainable location for new development;
- The proposal does not meet the criteria of "affordable housing";
- No requirement in village for housing;
- Impact on privacy/overlooking;
- Concern over noise to the proposed barn conversion from the use of equipment within a neighbouring workshop, which shares a party wall;
- Contrary to human rights;
- Identical to previous application;
- Submitted as two application but should be considered as the same scheme;
- Concerns over the proposal increasing the drainage of surface water and flooding issues in the locality;
- Support the proposal as it is a sympathetic conversion saving a barn in the village;
- It is in a Conservation Area, would result in the loss of green space at the heart of the village;
- Impact on views;
- Extension to barn is overdevelopment and overbearing;
- Set precedent;
- During works would be disruption to residents, including removal of telegraph poles and large vehicles;
- Post Office Lane is a private road and widening would increase costs.

### **Comments of Business Manager**

It is the Council's submission that it can demonstrate a 5 year housing supply against a robust OAN and that for the purposes of decision making the Development Plan is up to date.

### **Principle of Development**

The adopted Core Strategy details the settlement hierarchy which will help deliver sustainable development in the District. The intentions of this hierarchy are to direct new residential development to the sub-regional centre, service centres and principal villages. Other villages, including South Scarle, are to be assessed against Spatial Policy 3 – Rural Areas. As the proposal relates to the conversion of an existing building the penultimate paragraph of this policy applies.

This states that:-

‘Within the main built-up area of villages consideration will also be given to schemes which secure environmental enhancements by the re-use or redevelopment of former farmyards/farm buildings or the removal of businesses where the operation gives rise to amenity issues. The scale of such enabling development should be appropriate to the location of the proposal’.

I am mindful that this refers to ‘farm buildings’ which the barn to this application relates is currently not.

However the previous comments of the Conservation Officers in response to a pre application enquiry submitted in 2015 should be noted. The Conservation Officer considered that historic maps suggested that the barn formed part of a larger unit and that the conversion and a potential modest extension may provide opportunities to sustain and enhance the traditional character of the barn particularly in relation to the positive contribution it makes to the character and appearance of the conservation area.

Therefore being pragmatic it is considered reasonable to assess the proposal against this policy reference. The barn is currently vacant and in a poor condition and the proposal would bring about environmental enhancements, safeguarding the traditional character of the building retaining some of its historic merit and safeguarding its longevity by proposing a new viable use.

The site falls within the main built up area of the village which it is accepted has limited facilities and services – there is a church and a village hall. It is also acknowledged that there is a limited bus service to nearby villages with a wider range of services or service centres. It is therefore considered that future occupants of the proposed dwelling would likely rely on the use of a private car for day to day living. As such although the re use of the building is considered sustainable, its location is less so. However given that this relates to the re-use of a traditional barn of merit I do not consider that this is fatal to the application; insofar as the conversion of barns irrespective of their location is accepted by Policy DM8 including those in rural, countryside locations.

The proposal would bring about the conversion of a building with acceptable levels of intervention and alteration and would secure its long term future use. Although not a designated heritage asset, this is a building with historic merit and is considered to positively contribute to the character and appearance of the Conservation Area, the wider setting of the listed Corner Farm complex to the north together with the wider village setting. This is further assessed below.

The scale of the development in terms of quantum is considered appropriate to the size of the village, resulting in just one additional dwelling in the settlement.

Overall, it is therefore considered that some environmental benefits would be secured through finding a viable, long term use for the building and providing all other planning issues (set out below) can be addressed, the application is considered appropriate in principle and in accordance with SP3.

### **Impact on Character and Impact on The Historic Environment**

Policies CP14 and DM9 of the Council's Development Plan seek to protect the historic environment and ensure that heritage assets are considered in a way that best sustains their significance.

The National Planning Policy Framework (NPPF) makes it clear that new sustainable development should protect and enhance the historic environment (paragraph 7). Local planning authorities should take into account the desirability of new development making a positive contribution to local character and distinctiveness (paragraph 131). Local planning authorities should also look for opportunities to enhance or better reveal the significance of heritage assets when considering development in conservation areas and within the setting of heritage assets (paragraph 137). Planning decisions should aim to ensure that new developments (paragraphs 58, 60 and 61):

- establish a strong sense of place;
- respond to local character and history, and reflect the identity of local surroundings and materials, while not preventing or discouraging appropriate innovation;
- address the connections between people and places;
- integrate with the historic environment; and
- promote or reinforce local distinctiveness.

Permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area (paragraph 64). Additional advice on considering development within the historic environment is contained within the PPG (notably in the section 'conserving and enhancing the historic environment') and within Historic England Good Practice Advice Notes (notably GPA2 and GPA3).

It was considered that as originally proposed the extension to the barn was neither proportional nor subordinate to the original barn, being larger in footprint than the existing structure, albeit the ridge of the roof was set down. Following negotiations with the agent, revised drawings have been deposited which reduces the footprint of the proposed extension to now be proportionately more subservient to the footprint of the original barn. The ridge height of the extension has also been reduced. This would now be considered to be more proportional, subservient and sensitive to the host building than the scheme originally proposed.

I would concur with the comments of the Conservation Section and am satisfied that the site is of sufficient size to accommodate the barn and its extension without appearing cramped or over developed and that the development would be appropriate in scale, form and layout paying due respect to the existing barn and the local vernacular. I also consider the external finish materials of facing brickwork and pantiles, together with painted timber windows to be appropriate to the conservation context.

An additional ground floor window and an additional window and double glazed doors are proposed to the side elevation of the barn and a single internal opening would be provided between the barn and the proposed extension. These interventions would not be considered to unduly impact on the historic character and appearance of the barn nor the heritage setting.

The development would require the removal of a Bramley tree close to the existing barn which although is regrettable, I am of the opinion that its amenity value in the streetscene is limited by existing screening to the boundaries of the site and a condition attached to any grant of planning permission which requires a landscaping scheme to be submitted prior to commencement to be capable of mitigating the loss of this feature.

I note the comments from the Conservation Officer and the overall conclusion that the proposed development would not have an adverse impact on the character and appearance of the Conservation Area or upon the setting of nearby listed buildings.

Taking the above into account Officers are therefore satisfied that the building can be converted to allow the integrity and character of the existing building to be retained as required by policies CP14 and DM9 as well as the SPD.

### Impact on Amenity

Policy DM5 of the DPD states that development proposals should ensure no unacceptable reduction in amenity including overbearing impacts and loss of privacy upon neighbouring development. The NPPF seeks to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings.

Given the siting of the proposed barn conversion and extension and their relationship with neighbouring properties to the north, I do not consider that the proposed development would give rise to any amenity issues by virtue of any material overbearing or overshadowing impacts. No windows are proposed on the northern gable of the existing barn which abuts the boundary to the north. The proposed extension would project towards the east of the site and would include two ground floor windows facing the northern boundary. These would be at ground floor level and obscured by any boundary treatment and as such would not create any overlooking or impact on privacy.

The previous application in relation to the barn conversion, 16/01038/FUL, was refused on the grounds that the proposed development would result in the lack of appropriately sized amenity space remaining to serve the occupiers of the host dwelling, to the detriment of the amenities of those residents. There has been no alteration to the proposal since this refusal and the amenity space and size remains the same. However the agent has put forward in their supporting statement an argument with regards to the plot size of the dwelling at 1 Post Office Lane which would be retained at *'427 square metres, just over 1 tenth of an acre. Typically it is agreed that for new residential sites that 10 average properties can be located on 1 acre / 4046 square metres. The revised site is more than this, and is typical of many plot sizes locally.'* It is a matter of debate as to whether a plot of this size would fail to provide adequate or appropriate levels of amenity space for any future occupiers of the dwelling. However it is officer view that the retained garden area to the rear of no. 1 Post Office Lane would not be out of character with other plot sizes within the vicinity of the site or the wider settlement. Officers do not consider that a refusal could be sustained for this sole reason.

Overall it is considered that the scheme on balance accords with Policy DM5.

### Highway Matters

Spatial Policy 7 indicates that development proposals should be appropriate for the highway network in terms of the volume and nature of traffic generated and ensure the safety, convenience and free flow of traffic using the highway are not adversely affected; and that appropriate parking provision is provided. Policy DM5 of the DPD requires the provision of safe access to new development and appropriate parking provision.



The previous applications on this site have been refused on the basis that the proposed development would result in an increased risk of a vehicle collision owing to the severely restricted visibility for drivers emerging from the Post Office Lane onto Main Street.

This application proposes alterations to the junction with Post Office Lane and Main Street with realignment to the kerb and improvements to the visibility.

The Highway Authority have raised no objection and have stated that previous concerns about the safety of the junction of Post Office Lane and Main Street to accommodate additional vehicle trips have been addressed by the proposal to improve the visibility at this junction by kerb realignment. This would be secure by condition.

Given the comments from Highway Authority, I am of the opinion that the proposal would not lead to a significant impact on highway safety and would not conflict with aims of Spatial Policy 7 and Policy DM5.

#### Impact on Ecology

Policy DM5 of the Allocations & Development Management DPD states in relation to ecology that;

‘Where it is apparent that a site may provide a habitat for protected species, development proposals should be supported by an up-to date ecological assessment, including a habitat survey and a survey for species listed in the Nottinghamshire Biodiversity Action Plan. Significantly harmful ecological impacts should be avoided through the design, layout and detailing of the development, with mitigation, and as a last resort, compensation (including off-site measures), provided where significant impacts cannot be avoided.’

Previously the application was refused on the basis the applicant had failed to fully demonstrate that the potential habitat of a protected species would be safeguarded as part of the proposed development. During the course of this application a Bat Activity Survey has been completed. Nottinghamshire Wildlife trust are satisfied that no bats were recorded emerging from the building and therefore should not pose a constraint to the proposed development. I agree.

I am therefore of the opinion that it has been demonstrated that the proposed development would not adversely impact on the potential habitat of a protected species, in accordance with the guidance within Policy DM5.

#### Other matters raised by neighbouring residents

The Council is satisfied that it has a 5 year housing land supply and this proposal will make a minor but positive contribution towards this.

In regard to the concerns over flooding, while I note the photographic evidence of standing water, as the site is located outside of a high risk flood zone, there is no requirement for the applicant to submit a flood risk assessment. Therefore I am of the opinion that refusal of planning permission on these grounds would not be justified. With regards to drainage should Members be minded to grant permission it is reasonable that a condition be attached requiring the submission of precise drainage details.

As the Party Wall Act is a separate piece of legislation outside of the planning remit, I am of the opinion that compliance with this legislation would not be a material planning consideration in the determination of this application.

I note the concerns raised over noise and vibration from the adjoining workshop, however as the workshop is ancillary to the neighbouring residential dwelling and not in commercial use, I feel a condition attached to any grant of planning permission which requires further details of noise cancellation measures along the party wall would be appropriate to overcome this issue. The agent has also conformed in their supporting statement that the rear of the building adjacent to the workshop will be soundproofed.

Comments received with regards to setting precedent are noted. However, any applications for similar developments within the village would be assessed purely on their own merits.

### Planning Balance and Conclusion

The site is located within the main built-up area of South Scarle and it is considered that the proposal would provide some environmental enhancement of the site, contribute positively to the Conservation Area setting and would secure a long term use of this traditional barn. Officers are satisfied that the building warrants retention and is capable of conversion in line with the requirements of Policy SP3 and the Conversion of Traditional Rural Buildings SPD.

The proposal would provide a modest two bedroom dwelling which would also add to the housing stock and mix of dwellings in the village.

Although mindful of the previous reasons for refusal, given the submission of details which address previous highway and ecology issues and the submission of revised plans which reduce the scale of the proposed extension to the barn, officers consider that, on balance, the proposed development would now be acceptable in terms of its impact on neighbouring properties, from a conservation perspective and would not result in any adverse impact to the character and appearance to the Conservation Area or setting of nearby listed buildings. Officers also consider that the level of amenity space to serve both the host dwelling and the proposed dwelling are adequate and this issue would not be sufficient to withhold planning permission.

### RECOMMENDATION

**That full planning permission is approved subject to the following conditions:**

01

The development hereby permitted shall not begin later than three years from the date of this permission.

Reason: To comply with the requirements of Section 51 of the Planning and Compulsory Purchase Act 2004.

02

The development hereby permitted shall not be carried out except in complete accordance with the following approved plans, reference:-

Option 6 planning application existing/proposed plans drawing no. I(03)09 Rev A  
Option 6 planning application existing/proposed plans drawing no. L(03)10 Rev A  
Proposed alignment drawing no. SK004

unless otherwise agreed in writing by the local planning authority through the approval of a non-material amendment to the permission.

Reason: So as to define this permission.

03

No development shall be commenced until full details of the external materials proposed in the conversion and the extension hereby approved have been submitted to and approved in writing by the local planning authority. Development shall thereafter be carried out in accordance with the approved details unless otherwise agreed in writing by the local planning authority.

Reason: In the interests of visual amenity and in order to preserve or enhance the character and appearance of the Conservation Area.

04

No development shall be commenced in respect of the features identified below, until details of the design, specification, fixing and finish in the form of drawings and sections at a scale of not less than 1:10 have been submitted to and approved in writing by the local planning authority. Development shall thereafter be undertaken in accordance with the approved details unless otherwise agreed in writing by the local planning authority.

External windows including roof windows, doors and their immediate surroundings, including details of glazing and glazing bars.

Treatment of window and door heads and cills

Verges and eaves

Rainwater goods

Coping

Extractor vents

Flues

Meter boxes

Airbricks

Soil and vent pipes

Reason: In the interests of visual amenity and in order to preserve or enhance the character and appearance of the Conservation Area.

05

No development shall be commenced until full details of both hard and soft landscape works have been submitted to and approved in writing by the local planning authority and these works shall be carried out as approved. These details shall include:

- a schedule (including planting plans and written specifications, including cultivation and other operations associated with plant and grass establishment) of trees, shrubs and other plants, noting species, plant sizes, proposed numbers and densities. The scheme shall be designed so as to enhance the nature conservation value of the site, including the use of locally native plant species;

- existing trees and hedgerows, which are to be retained pending approval of a detailed scheme; together with measures for protection during construction;
- hard surfaces;
- means of enclosure;

Reason: In the interests of visual amenity and biodiversity.

06

The approved soft landscaping shall be completed during the first planting season following the commencement of the development, or such longer period as may be agreed in writing by the local planning authority. Any trees/shrubs which, within a period of five years of being planted die, are removed or become seriously damaged or diseased shall be replaced in the current or next planting season with others of similar size and species unless otherwise agreed in writing by the local planning authority. The approved hard landscaping scheme shall be implemented on site prior to first occupation unless otherwise agreed in writing by the Local Planning Authority.

Reason: To ensure the work is carried out within a reasonable period and thereafter properly maintained, in the interests of visual amenity and biodiversity.

07

No development shall be commenced until details of the mortar to be used for re-pointing (including materials and ratios, colour, texture and pointing finish) shall be submitted to and agreed in writing by the local planning authority. The development shall thereafter be carried out in accordance with the agreed details, unless otherwise agreed in writing by the local planning authority.

Reason: To safeguard the special architectural and historic interest of the building.

08

No development shall commence on any part of the application site unless or until improvements to the Post Office Lane/Main Street junction have been made as illustrated by drawing SK004 to realign the kerblines & thereby enhance junction visibility to the satisfaction of the Local Planning Authority.

Reason: In the interests of highway safety

09

No part of the development hereby permitted shall be occupied until the driveway is surfaced in a hard bound material (not loose gravel) for a minimum of 2 metres behind the highway boundary. The surfaced drive shall then be maintained in such hard bound material for the life of the development.

Reason: To reduce the possibility of deleterious material being deposited on the public highway (loose stones etc.).

010

No part of the development hereby permitted shall be occupied until a dropped vehicular footway crossing is available for use and constructed in accordance with the Highway Authority specification to the satisfaction of the Local Planning Authority.

Reason: To protect the structural integrity of the highway and to allow for future maintenance.

011

No hedge or tree that is to be removed as part of the development hereby permitted shall be lopped, topped, felled or otherwise removed during the bird nesting season(beginning of March to end of August inclusive) unless otherwise agreed in writing by the local planning authority.

Reason: To ensure that adequate provision is made for the protection of nesting on site in line with the recommendations of the protected species survey by EMEC (dated April 2017) that was submitted in support of the application.

012

No development shall commence until a scheme for ecological enhancements has been submitted to and has been approved in writing by the Local Planning Authority. This scheme may include, but is not limited to, the provision of bird boxes/artificial bat roosts within the site. The approved scheme shall be implemented on site prior to first occupation or to an alternative previously agreed timetable and shall be retained for the lifetime of the development unless otherwise agreed.

Reason: In the interests of providing ecological enhancements to accord with CP12 and DM7 of the Development Plan.

013

No development shall be commenced until details of the means of foul drainage and surface water disposal have been submitted to and approved in writing by the local planning authority. The development shall be carried out thereafter in accordance with the approved details unless otherwise agreed in writing by the local planning authority.

Reason: To ensure the provision of satisfactory means of foul sewage/surface water disposal.

014

No development shall be commenced until details of measures to protect the proposed occupiers of the dwelling hereby approved from noise and vibration from the adjoining workshop to the north have been submitted to and have been agreed in writing by the Local Planning Authority. The approved measures shall be implemented in full on site prior to first occupation.

Reason: In the interests of residential amenity.

015

Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (and any order revoking, re-enacting or modifying that Order), other than development expressly authorised by this permission, there shall be no development under Schedule 2, Part 1 of the Order in respect of:

Class A: The enlargement, improvement or other alteration of a dwellinghouse, including extensions to the property and the insertion or replacement of doors and windows.

Class B: The enlargement of a dwellinghouse consisting of an addition or alteration to its roof.

Class C: Any other alteration to the roof of a dwellinghouse.

Class D: The erection or construction of a porch outside any external door of a dwellinghouse.

Class E: Development within the curtilage of a dwellinghouse.

Class F: The provision or replacement of hard standing within the curtilage of a dwellinghouse.

Class G: The installation, alteration or replacement of a chimney, flue or soil and vent pipe on a dwellinghouse.

Class H: The installation, alteration or replacement of a microwave antenna on a dwellinghouse or within the curtilage of a dwellinghouse.

Or Schedule 2, Part 2:

Class A: The erection, construction, maintenance, improvement or alteration of a gate, fence, wall or other means of enclosure.

Class C: The painting of the exterior of any building.

Class F: The installation, alteration or replacement on a building of a closed circuit television camera to be used for security purposes.

unless consent has firstly be granted in the form of a separate planning permission.

Reason: To ensure that any proposed further alterations or extensions are sympathetic to the fact that the building is a converted "barn"/agricultural building.

### **Notes to Applicant**

01

In order to carry out the off-site works required you will be undertaking work in the public highway which is land subject to the provisions of the Highways Act 1980 (as amended) and therefore land over which you have no control. In order to undertake the works you will need to enter into an agreement under Section 278 of the Act. Please contact david.albans@nottsc.gov.uk for details.

02

The applicant is advised that all planning permissions granted on or after the 1st December 2011 may be subject to the Community Infrastructure Levy (CIL). Full details of CIL are available on the Council's website at [www.newark-sherwooddc.gov.uk/cil/](http://www.newark-sherwooddc.gov.uk/cil/)

The proposed development has been assessed and it is the Council's view that CIL is not payable on the development hereby approved as the gross internal area of new build is less 100 square metres.

03

This application has been the subject of discussions during the application process to ensure that the proposal is acceptable. The District Planning Authority has accordingly worked positively and pro-actively, seeking solutions to problems arising in coming to its decision. This is fully in accordance with Town and Country Planning (Development Management Procedure) Order 2010 (as amended).

04

This application includes the conversion of a barn to residential use and there lies the potential for this to have been used for a variety of activities. It would depend on what specific activities have been carried out to consider the implications, if any, for contamination of the site. The applicant/developer will need to have a contingency plan should the construction/conversion phase reveal any contamination, which must be notified to the Proactive Team in Environmental Health at Newark and Sherwood District Council on (01636) 650000.

Background Papers

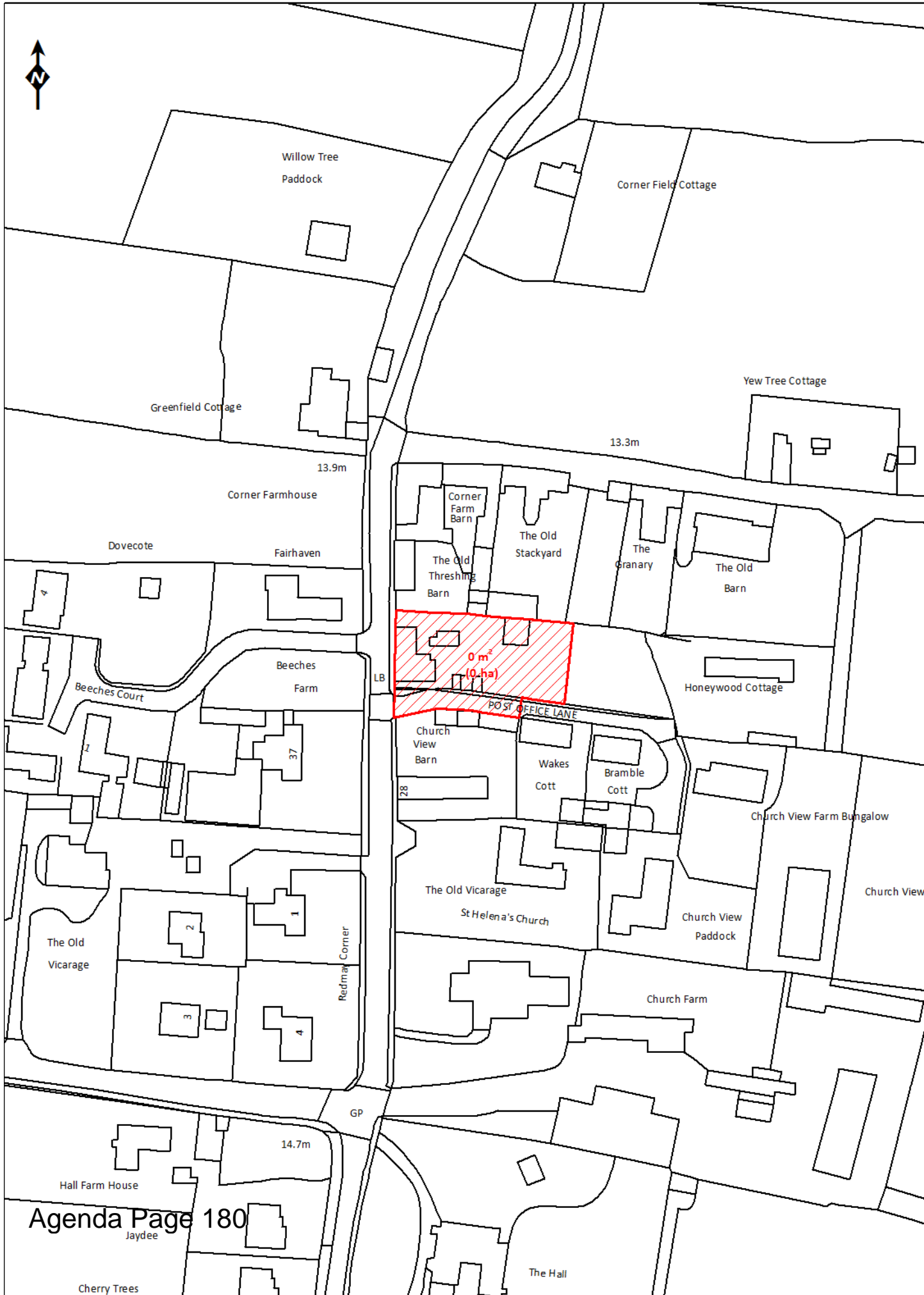
Application case file.

For further information, please contact Bev Pearson on ext. 5840

All submission documents relating to this planning application can be found on the following website [www.newark-sherwooddc.gov.uk](http://www.newark-sherwooddc.gov.uk).

**Kirsty Cole**  
**Deputy Chief Executive**

Committee Plan - 17/01118/FUL





**APPEALS DETERMINED (between 20 November 2017 and 02 January 2018)**

<b>App No.</b>	<b>Address</b>	<b>Proposal</b>	<b>Decision</b>	<b>Decision Date</b>
17/00713/TPO	Tyni The Spinney Winthorpe NG24 2NT	Undertake works to trees protected by TPO N309: Holly T1 - Fell to ground level and stump treat or stump removal; Yew T2 - Crown reduce to previous pruning height, crown lift to give 3m clearance above ground level and prune back lateral branches over driveway by 2.2m to leave 1m of the branch structure; and Sycamore T3 - Fell to ground level and stump removal to allow for rebuilding of boundary wall.	DISMISS	27.12.2017
17/00719/FUL	Land To The Rear Of 51 Lansbury Road Edwinstowe Nottinghamshire, NG21 9QH	Proposed single-storey ('self-build') bungalow (Resubmission of 16/00390/FUL)	DISMISS	27.11.2017
17/00415/ADV	Retail Unit Adjacent Topps Tiles (In 'N' Out Autocentre) 1 Northern Road Newark On Trent, NG24 1NU	Erection of a large totem sign	DISMISS	13.12.2017
17/00675/FUL	Denholme Cottage Halam Road Southwell Nottinghamshire, NG25 0AH	New Chalet bungalow to the rear of Denholme Cottage	ALLOW	13.12.2017
16/01881/FULM	Land Off Elston Lane Elston Nottinghamshire	Proposed development of 10 new affordable homes	ALLOW	27.11.2017
17/00562/FUL	Bunny Hill Barn Old Rufford Road	Householder application for erection of a two storey extension and single storey lean to	ALLOW	19.12.2017

	Farnsfield Nottinghamshire, NG22 8HU			
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**RECOMMENDATION**

**That the report be noted.**

Background Papers

Application case files.

For further information please contact our Technical Support Business Unit on 01636 650000 or email [planning@nsdc.info](mailto:planning@nsdc.info) quoting the relevant application number.

**Matt Lamb**  
**Business Manager Growth & Regeneration**



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## Appeal Decision

Site visit made on 21 November 2017

**by Gareth Wildgoose BSc (Hons) MSc MRTPI**

**an Inspector appointed by the Secretary of State for Communities and Local Government**

**Decision date: 13<sup>th</sup> December 2017**

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**Appeal Ref: APP/B3030/W/17/3182663**

**Denholme Cottage, Halam Road, Southwell NG25 0AH**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Mrs Susan Raworth against the decision of Newark & Sherwood District Council.
  - The application Ref 17/00675/FUL, dated 5 April 2017, was refused by notice dated 26 June 2017.
  - The development proposed is a new chalet bungalow to the rear of Denholme Cottage.
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### Decision

1. The appeal is allowed and planning permission is granted for a new chalet bungalow to the rear of Denholme Cottage at Denholme Cottage, Halam Road, Southwell NG25 0AH in accordance with the terms of the application, Ref 17/00675/FUL, dated 5 April 2017, subject to the conditions set out in the attached schedule.

### Main Issues

2. The main issues of this appeal are:
  - Whether the development would preserve or enhance the character and appearance of the Southwell Conservation Area, and;
  - The effect upon highway and pedestrian safety, with particular regard to access arrangements.

### Reasons

*Character and appearance – Southwell Conservation Area*

3. Southwell Conservation Area covers part of Southwell surrounding the broadly west to east route of Westhorpe, Westgate, King Street, Church Street and Burgage, including the historic core characterised by the Southwell Minster, commercial uses, other buildings and open spaces which contribute to its significance. To the west of the historic core and beyond Queen Street, the density of development reduces leading to the section of Halam Road where the site is located and the character is predominantly residential, despite the presence of a nearby school, with a range of historic, traditional and modern buildings of differing style, appearance, scale, proportions and layout.
4. The appeal site lies within the Conservation Area, but close to its edge with the boundary positioned along the shared boundary with Zennor, Rosevear and Bryher that are located outside of the Conservation Area with the latter two

dwellings in a backland position. The site comprises the side garden and part of the rear garden of Denholme Cottage, a two storey building with a distinctive multi-level roof built from red brick and tile roof materials which the Council identifies is of local interest and therefore, is a non-designated heritage asset.

5. Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area. Paragraph 131 of the National Planning Policy Framework (the Framework) requires that account be taken of the desirability of sustaining and enhancing the significance of heritage assets, and of new development making a positive contribution to local character and distinctiveness. Paragraph 132 of the Framework states that when considering the impact of a proposal on the significance of designated heritage assets, great weight should be given to the asset's conservation. Paragraph 135 of the Framework also indicates that the effect on the significance of a non-designated heritage asset should be taken into account.
6. The site is located close to the junction of Halam Road with Kirklington Road. The alignment of the latter road results in a number of buildings which face Kirklington Road within the Conservation Area lying beyond the rear building line of Denholme Cottage in a tight grouping. This includes No 7 Kirklington Road that is positioned almost parallel with the rear boundary of the site resulting in a similar pattern of built form to backland developments outside of the Conservation Area that are visible to the west. Land levels within the site gently slope downwards from Denholme Cottage towards No 7, with boundary hedging that adjoins Halam Road and the surrounding buildings screening much of the site from public vantage points. The majority of the site is currently heavily overgrown with some domestic structures associated with Denholme Cottage that are of little architectural or historic merit which would be removed. Consequently, in its existing condition, the site makes little contribution to the significance of the Conservation Area or Denholme Cottage as a non-designated asset.
7. The proposal seeks a 1.5 storey dwelling in a position close to the rear boundary of the site with No 7 Kirklington Road, with the existing rear garden of Denholme Cottage also subdivided to ensure that each property would be served by its own amenity space. The footprint and scale of the dwelling would be comparable to properties in the surrounding area, including No 7 Kirklington Road nearby. The dwelling would consist of a traditional side gable roof design with chimneys at either end, a catslide roof at the rear and three front roof dormers which are features that are not uncharacteristic of the wider Conservation Area. The brick and pantile materials, fenestration and detailing would be capable of complementing the traditional and historic character of the varied range of different buildings in the area. The agreement of the precise materials for each is capable of being secured by condition.
8. The main public vantage points of the dwelling would be from Halam Road where only glimpses at distance and against the backdrop of other properties and landscaping would be available from the site access. The set back position of the dwelling and the reduced land levels when compared to Halam Road would minimise its visual prominence within the Conservation Area, as views from Kirklington Road would be largely screened by the position of existing properties and established landscaping. The dwelling would not look out of place in such a backland position given the examples of other dwellings nearby in a similar location, both inside and outside of the Conservation Area. Furthermore, the

dwelling would not appear unduly cramped or an over-intensive form of development as it would sit within a generous plot and have gardens that would be larger than a number of properties which face Kirklington Road nearby, as would the remaining plot and gardens of Denholme Cottage. The separation distance to Denholme Cottage and the difference in land levels would ensure subservience and no adverse effect upon the non-designated heritage asset. Grade II listed buildings nearby (Nos. 1 and 2 Halam Road) are more distant and screened by intervening buildings and, therefore, would be unaffected.

9. The surroundings of the site are heavily influenced by the verdant character of trees which are located within the curtilage of properties to the west and would be unaffected by the proposal. The hedge and semi-mature trees within the site adjoining the access point are suitable for removal given their poor condition due to competition arising from mature trees within the curtilage of Zennor and their close proximity to hardstanding which would constrain future growth. There are a limited number of curtilage trees further from the site access, with two semi-mature specimens proposed to be retained as part of the site layout. The remaining ornamental trees are of little amenity value and suitable for removal.
10. The effect of additional hardstanding along the driveway could be mitigated by the installation of stone paving close to the access, with the remaining materials capable of being agreed by condition. Furthermore, the provision of car parking within the site to serve Denholme Cottage could benefit the Conservation Area in terms of reducing existing parking along that property frontage and relocating it to a less prominent position that would be partially screened by a new matching stone wall. The driveway and parking areas would have a similar appearance to existing driveways nearby to the west on Halam Road with the potential to be further softened by landscaping which could be secured by condition. The proposal would, therefore, be capable of maintaining the verdant character of the Conservation Area and its immediate surroundings.
11. Having regard to all of the above, I conclude that the development would preserve the character and appearance of Southwell Conservation Area. The proposal would not, therefore, conflict with Policy CP9 of the Newark and Sherwood Core Strategy (CS), adopted March 2011, or Policies DM5 and DM9 of the Newark and Sherwood Local Development Framework Allocations and Development Management DPD (AM&DM), adopted July 2013, or the relevant Policies HE1, DH1 and DH3 of the Southwell Neighbourhood Plan, adopted October 2016. When considered together the policies seek to ensure new development is of a high quality design which contributes positively in complementing local character, local distinctiveness and a sense of place, whilst preserving or enhancing the historic environment and heritage assets including conservation areas. The policies are consistent with the Framework.

#### *Highway and pedestrian safety*

12. Halam Road where it runs past the site has a 30mph speed limit with street lighting and footways to either side. There are no on-street parking restrictions in the immediate vicinity of the site, with the closest being associated with the Kirklington Road junction, bus stops and a crossing further to the east close to the school access on the opposite side of the road. During my visit, Halam Road was lightly trafficked in each direction with significant levels of on-street parking along its northern side. Although my observations reflect only a brief snapshot of highway conditions, there is no evidence before me that it is not representative of

most times of the day. Nevertheless, traffic levels and the number of pedestrians would likely increase in early mornings, late afternoons and early evenings on weekdays, particularly at times of school drop offs and pick ups.

13. The entrance to the site would be located on the outside of a very gentle curve in the alignment of Halam Road. The submitted plans indicate that the access and driveway serving the dwelling would be located immediately to the west of Denholme Cottage and would include a 2m by 2m pedestrian visibility splay on each side prior to the footway with a minimum driveway width of 5.25m for the first 5m beyond the public footway. The submitted plans also identify that a 2.4m by 47m visibility splay for vehicles would be capable of being achieved in each direction from the access. The site is already served by a dropped kerb along the footway where the access is proposed and based upon the evidence before me, the principle of a vehicular access into the site via a dropped kerb was established in 2005 despite the parking area having not been laid out to date.
14. The Council's concerns in terms of highway and pedestrian safety relate to whether the visibility splays from the access could be achieved due to overgrown hedging at the front of Zennor which encroaches upon the footway and the presence of on-street parking nearby to either side of the access. However, I observed that the presence of on-street parking in close proximity to existing driveways is a common feature of the northern side of Halam Road, including the vehicular accesses onto a parking area at the front of Denholme Cottage and Zennor respectively. Consequently, the visibility splays from existing well-established accesses are constrained by the intervening presence of parked vehicles and require a necessary level of care when accessing Halam Road to view vehicles approaching in either direction and those leaving the junction of Wolsey Close. The risk of accidents in those circumstances is currently worsened by the limited depth of frontage parking that serves Denholme Cottage which necessitates reversing manoeuvres either onto or from the highway.
15. The proposal would increase the off-street parking available within the site to serve both the new dwelling and Denholme Cottage. The demand for on-street parking to serve Denholme Cottage would, therefore, be reduced and the visibility towards the west from the existing driveway serving that property would also be enhanced by removal of on-street parking nearby due to the position of the new driveway. Furthermore, it is reasonable that the increased availability of off-street parking to serve occupiers of Denholme Cottage, including a turning area within the site, would likely reduce the frequency of reversing manoeuvres onto or from Halam Road, which would reduce the risk of accidents and would be beneficial to highway and pedestrian safety.
16. Having regard to the above, a minimum width of the driveway of 5.25m for the first 5m from the rear of the footway could be secured by condition to limit the potential for vehicles to obstruct the highway or footway when entering the site whilst other vehicles are exiting. In addition, the 2m by 2m pedestrian visibility splay within the site as indicated on the submitted plans would provide adequate visibility between vehicles exiting the driveway and pedestrians using the footway to ensure pedestrian safety, including those accessing the nearby school.
17. Visibility splays of 2.4m by 47m from the rear of the pedestrian footway would be obscured to the west by an overgrown hedge at the front of Zennor and could not be secured by condition in any case as the land falls outside of the appeal site and the appellant's ownership. Nevertheless, the Council retains powers under

the Highways Act 1980 to cut or fell the hedge if it would endanger or obstruct the passage of vehicles or pedestrians, or obstruct or interfere with the view of drivers. However, such action would appear unlikely to be necessary at present to ensure a safe and suitable access. Use of the pedestrian footway between the site and the carriageway would allow vehicles in forward gear to obtain adequate visibility, beyond parked cars, of vehicles and cyclists' travelling along Halam Road in either direction. Vehicles emerging slowly from the footway while awaiting a gap in traffic would appear to be a common manoeuvre to exit driveways in the area and there is no evidence of accidents between vehicles or pedestrians having occurred as a result. Consequently, the low level of additional traffic and temporary construction traffic arising from an additional dwelling would be accommodated on the local highway network without causing an adverse impact upon highway or pedestrian safety.

18. I conclude that the development would not have a detrimental impact upon highway or pedestrian safety. The proposal, therefore, would not conflict with Policy SP7 of the CS, Policy DM5 of the AM&DM or the relevant Policy TA4 of the Southwell Neighbourhood Plan. When taken together, the policies seek that development provides safe, convenient and attractive accesses for all, would not affect the free flow of traffic, provides appropriate and effective parking provision and would not exacerbate on street parking problems or materially increase other traffic problems. The policies are consistent with the Framework in so far as it seeks safe and suitable access to the site with no severe residual cumulative impacts arising from the development upon highway and pedestrian safety.

### **Other Matters**

19. The dwelling would be located close to the shared boundary with No 7 Kirklington Road. However, the outlook and light provision to existing windows in the facing side elevation of the neighbouring property cannot be reasonably protected, as habitable rooms are alternatively served by windows on main elevations that would be unaffected. Furthermore, appropriate boundary treatments and landscaping could be secured by condition to prevent any privacy concerns arising from the proposed windows and patio doors in the facing side elevation of the new dwelling. There are no windows proposed in the facing first floor side elevation and such a relationship could be preserved by removal of permitted development rights otherwise conferred by the GPDO<sup>1</sup> for the insertion of windows. Consequently, the development would not cause unacceptable harm to the living conditions of occupiers of No 7 Kirklington Road and no contravention of rights under the Human Rights Act 1998 would occur.
20. The separation distance to other surrounding properties, including Denholme Cottage, is more distant and would ensure a satisfactory relationship in terms of outlook and privacy for both the occupiers of neighbouring properties and the future occupiers of the proposed dwelling in terms of outlook, light and privacy.
21. Interested parties raised additional concerns with respect to drainage and flood risk as the site sits higher than No 7 Kirklington Road. However, there is no substantive evidence before me that mitigation could not be provided via a suitably worded condition relating to hard and soft landscaping to prevent additional surface run off or increased flood risk to neighbouring properties.

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<sup>1</sup> Town and Country Planning (General Permitted Development) Order 2015







## **Conclusion**

27. For the reasons given above and taking all other matters into consideration, I conclude that the appeal should be allowed and planning permission granted as set out in the formal decision and subject to the conditions in the attached schedule.

*Gareth Wildgoose*

INSPECTOR

## **SCHEDULE**

### **CONDITIONS**

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 1610(P)00; 1610(P)01; 1610(P)02; 1610(P)03; 1610(P)04; 1610(P)05.
- 3) No development shall take place until the trees shown to be retained on drawing number 1610(P)02 have been protected by the following measures:
  - a) a chestnut pale or similar fence not less than 1.2 metres high shall be erected at either the outer extremity of the tree canopies or at a distance from any tree or hedge in accordance with details to be submitted to and approved in writing by the local planning authority;
  - b) no development (including the erection of site huts) shall take place within the crown spread of any tree;
  - c) no materials (including fuel and spoil) shall be stored within the crown spread of any tree;
  - d) no services shall be routed under the crown spread of any tree
  - e) no burning of materials shall take place within 10 metres of the crown spread of any tree.

The protection measures shall be retained during the development of the site, unless otherwise agreed in writing by the local planning authority.

- 4) Notwithstanding condition 2, no development shall take place until full details of the finished floor levels of the proposed dwelling, above ordnance datum and in relation to existing ground levels, have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved levels.
- 5) Notwithstanding condition 2, before any above ground development hereby permitted takes place, precise details or samples of the materials to be used in the construction of the external surfaces of the dwelling hereby permitted shall have been submitted to and approved in writing by the local planning authority. The details shall include brick work and other facing materials, roof materials, bond, mortar mix and pointing technique. Development shall be carried out in accordance with the approved details and/or samples.

- 6) Notwithstanding condition 2, all external joinery shall be of a timber construction only. Before any above ground development hereby permitted takes place, details of the design, specification, method of opening and method of fixing and finish of all external joinery, in the form of drawings and sections to no less than 1:20 scale, along with any product literature, shall be submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the agreed details.
- 7) Notwithstanding condition 2, before any above ground development hereby permitted takes place, details of the design and treatment of window and door heads and cills, verges and eaves, and coping, together with any extractor vents, flues, meter boxes, air bricks and soil and vent pipes proposed, including drawings and sections at a scale of not less than 1:10, shall have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.
- 8) Notwithstanding condition 2, before any above ground development hereby permitted takes place, details of the construction of the proposed chimneys and dormer windows in the form of scaled plans and sections, shall have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.
- 9) Notwithstanding condition 2, before any above ground development hereby permitted takes place, precise details of all boundary treatments proposed within the site including types, height, design and materials, shall have been submitted to and approved in writing by the local planning authority. The details shall include the proposed replacement boundary wall as well as any new boundary treatments. The approved details shall be implemented in full prior to the first occupation of the dwelling hereby permitted and shall be retained in accordance with the approved details thereafter.
- 10) Notwithstanding condition 2, before any above ground development hereby permitted takes place, full details of both hard and soft landscaping works within the site shall have been submitted to and approved in writing by the local planning authority. The details shall include:
  - a) A schedule of trees, shrubs and other plants, noting species, plant sizes, proposed numbers and densities (including planting plans and written specifications, together with cultivation and other operations associated with plant and grass establishment);
  - b) Proposed finished ground levels or contours;
  - c) Materials, including hardsurfacing, to be used for the construction of the car parking areas and other vehicle, pedestrian and circulation areas indicated on the approved plans;
  - d) Proposed and existing functional services above and below ground (i.e. communication cables, pipelines, manholes, foul and surface water drainage, etc), and;
  - e) Any other structures proposed, i.e. refuse or other storage units or lighting columns.

All landscaping works shall have been carried out in accordance with the approved details before the end of the first planting season either following the first occupation of the dwelling or the substantial completion of development,

- whichever is sooner. Any trees or plants which within a period of 5 years from substantial completion of the development, die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species to those originally planted.
- 11) The new driveway shall not be brought into use until 2m x 2m pedestrian visibility splays have been provided on both sides of each access measured from the back of the footway in accordance with drawing number 1610(P)02. The pedestrian visibility splays shall be retained thereafter and maintained throughout the life of the development clear of any object greater than 0.25m in height relative to footway level.
  - 12) The dwelling hereby permitted shall not be occupied until the site access, driveway and parking areas have been completed, with the driveway surfaced in a bound material at a minimum width of 5.25m for a minimum distance of 5m behind the highway boundary in accordance with drawing number 1610(P)01. The site access, driveway and parking areas shall remain in accordance with the approved plan thereafter.
  - 13) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development Order) 2015 (or any order revoking, re-enacting or modifying that Order), no windows including dormer windows (other than those expressly authorised by this permission) shall be constructed at first floor level on the northern elevation of the dwelling hereby permitted.
  - 14) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development Order) 2015 (or any order revoking and re-enacting that Order with or without modification), no enlargement, improvement, addition, building, structure or alteration permitted by Classes A to H of Part 1 and Classes A to I of Part 14 of Schedule 2 of that Order shall be undertaken to the dwelling hereby permitted or within its curtilage without the grant of planning permission.

**END OF SCHEDULE**



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## Appeal Decision

Site visit made on 2 November 2017

by **S J Lee BA(Hons) MA MRTPI**

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 27th November 2017

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**Appeal Ref: APP/B3030/W/17/3180014**

**Land off Elston Lane, Elston, Nottinghamshire NG23 5PB**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Mrs Marie Wilson of Geda Construction against the decision of Newark & Sherwood District Council.
  - The application Ref 16/01881/FULM, dated 9 November 2016, was refused by notice dated 8 March 2017.
  - The development proposed is 10 new affordable homes.
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### Decision

1. The appeal is allowed and planning permission is granted for 10 new affordable homes at Land off Elston Lane, Elston, Nottinghamshire NG23 5PB in accordance with the terms of the application, Ref 16/01881/FULM, dated 9 November 2016, subject to the following conditions in the attached schedule.

### Main Issue

2. The main issues in this case are (i) the effect of the development on the character and appearance of the area, including the setting of Elston Conservation Area (ECA) and (ii) whether there are alternative sites that could meet local affordable housing needs.

### Reasons

#### *Background and Policy Context*

3. The appeal relates to an agricultural field located in the open countryside on the edge of the village of Elston. The site forms the start of a large and relatively unbroken swathe of generally flat open countryside stretching out from the edge of the village on this side of the road. A number of detached properties of different styles, layouts and ages are located opposite the site. Elston Lane itself is an unpaved country lane which reaches a dead end further to the north west of the site. Apart from serving the few more isolated dwellings located beyond the site, the lane is not open to through traffic.
4. Core Policy 2 (CP2) of the Newark and Sherwood Core Strategy (2011)(CS) allows for the development of rural exception sites for affordable housing where they are within or adjacent to the main built up area of villages. Owing to the dwellings opposite and proximity to the main bulk of the village, I am satisfied that the development would meet the broad locational requirements of this policy. However the support accorded to rural exception sites via Policy

CP2 is not unconditional. The requirements of Spatial Policy 3 (SP3) in terms of scale, need, impact and character must also be met.

5. The Council's decision notice is specific in stating that the application was submitted with evidence to demonstrate that there is an up-to-date affordable housing need in Elston. There appears to be broad agreement between the main parties that the scale of the need is around 13 dwellings based on the most recent surveys. I have also noted the support from the Council's Strategic Housing Business Unit for the development in terms of meeting identified local needs. Comments from some interested parties have disputed the level of need and whether there are not already sufficient affordable dwellings in the village to meet it. However, in lieu of any substantive contradictory evidence or corroboration of these concerns, I consider that the 'need' requirement of Policy SP3 has been met. I shall address matters of impact, scale and character later in the decision.

#### *Character and appearance*

6. The development would take the form of a cul-de-sac, with two dwellings facing onto the road either side of a repositioned access, set back behind the existing wide grass verge. The existing post and rail fencing would remain. Four dwellings would be located along the left edge of the site when viewed from the road, with two to the rear and two to the right hand side closest to the edge of the ECA boundary. The development would also provide an area of open space that would include the sustainable drainage (SUDs) measures and the provision of new soft landscaping across the site.
7. The boundary of the ECA lies directly to the east of the site. The Framework states that the setting of a heritage asset is defined as the surroundings in which the asset is experienced. The evidence before me suggests that the significance of the ECA lies in its historic nature and the resulting street pattern and urban form. While I saw some modern development in the village, the age and vernacular of many of its buildings adds to its overtly rural and agricultural character. While much of the built form of the ECA is not visible from the site, it still forms part of an attractive open setting to the edge of the village which helps to reinforce the rural character of the settlement. As such, the site makes a positive contribution to the setting and significance of the ECA.
8. Although it would not be of a high density in its own right, the development would appear to be of a higher density than the cluster of dwellings opposite. Moreover, the cul-de-sac layout would be somewhat uncharacteristic of the more linear form and grain of housing in the vicinity of the site. This, coupled with the distance to the closest dwelling on the northern side of the road, would mean that the development would not integrate seamlessly with the existing built form of the village.
9. The layout would therefore serve to create a somewhat artificial edge to the settlement. This is particularly the case in relation to plots 1-5 which would form a largely unbroken line of development projecting for some distance into the site. The rear elevations and gardens of these dwellings would face out from the village. Notwithstanding the farm track, the presence of the dwellings and the visual effect of the gardens and associated domestic paraphernalia would create a deeper and harder edge to the village than currently exists, particularly when viewed from the west. This would serve to diminish the

- contrast and transition between the settlement and open countryside to a certain extent.
10. However, any development on what is at present an open field would result in some change to the appearance of the site and some visual detriment through a built form being placed where there is currently none. Moreover, it is reasonable to assume that the development of many rural exception sites on the edge of settlements would result in some form of encroachment into the countryside.
  11. While the layout would not fully reflect that of nearby dwellings, there are other factors that would serve to mitigate and minimise the overall impact of the development. The overall density is not excessive and the dwellings have been designed to reflect the local vernacular, both in terms of style and proposed materials. The individual designs are of a good quality and would not be out of place in this location. Moreover, the different house types within the site would help break up the overall mass of the built form and provide a greater degree of visual interest and variety.
  12. Bungalows would be located to the front of the site, and would be set well back from the road behind the grass verge, boundary treatments and new landscaping measures. The two storey dwelling would be located to the rear of the site. This would help to reduce the scale and impact of the development on the street scene. Notwithstanding my comments above, plots 1-3 would also be single storey only, thus serving to reduce the visual impact of this line of dwellings from longer distance views. The provision of soft landscaping across the site would provide a degree of additional mitigation.
  13. The mass and density of development nearest to the ECA boundary would also be reduced through the provision of the open space and SUDs measures. While orientated differently to nearby dwellings, and deeper into the site, the lower density and dispersed nature of the development to the right of the access would also better reflect the overall density and character of the village and further reduce the impact of the encroachment into the countryside.
  14. The site lies in the South Nottinghamshire Farmlands Character landscape character area within the Elston Village Farmlands. The evidence does not suggest that this is an area of high landscape sensitivity. The overall visibility of the site is relatively limited to passers-by on Elston Lane and by residents living opposite. The topography of the site and nature of development around it would ensure that long distance views of the development would be limited and would mostly be seen in the context of the larger built form of the village. The wider effect on the landscape character would be relatively localised in scale and nature.
  15. In conclusion, there would inevitably be some change to the area as a result of the development, though change does not always equate to harm. There are some elements of the proposal which do not entirely reflect the layout and form of development in the village. There would also be some encroachment into the open countryside and a degree of urbanisation of what is currently an open field. However, this would be no greater than what might be expected for any development located on the edge of a settlement. Overall, I consider that the quality and sympathetic nature of the design, the density and internal layout of the development and other mitigation measures including open space and landscaping would ensure that the cul-de-sac layout would not in itself



result in significant or unacceptable harm to the character and appearance of the area or the setting of the ECA.

16. Accordingly, there would be no conflict with CS policies CP2, SP3, Core Policy 9, Core Policy 14 and policies DM5 and DM9 of the Newark and Sherwood Allocations and Development Management Development Plan (ADM) (2013) which seek, amongst other things, to ensure that development reflects the character of existing built form and does not have a detrimental impact on the character or appearance of the area. They also seek to ensure that development affecting the setting of a conservation area secures its protection. The Council's reason for refusal is not specific as to what aspects of the National Planning Policy Framework (the Framework) or Planning Practice Guidance (PPG) the development conflicts with. Nevertheless, I have had regard to those policies relating to design, the location of development in the countryside and protection of heritage assets and have concluded there would be no conflict with either policy or guidance.

#### *Alternative Sites*

17. While there appears to be no requirement within Policy CP2 to consider alternative sites, I accept that in considering the site as a rural exception, the potential to meet the needs within the village could be a material factor. There is evidence of a long term need for affordable housing in the village and a search for sites over a considerable period of time. A number of sites appear to have been considered and rejected for various reasons over this period.
18. I accept that some of the reasons given for rejecting certain sites rely to an extent on speculation or local knowledge and that circumstances may have changed on particular sites during the intervening periods between site finding exercises. This does not necessarily mean that the conclusions are invalid. Moreover, the passage of time over which this issue has existed and has been worked on by a variety of groups without being adequately addressed is suggestive of a general lack of availability, viability or some other barrier to sites within the village coming forward.
19. There is also little evidence that the sites in question are being considered for housing development of any kind or that they are being actively promoted through the Council's Strategic Housing Land Availability Assessment (SHLAA) or any other mechanism. There is therefore nothing before me to suggest that these sites, any or other as yet unidentified sites in the village, are suitable, available or viable for the delivery of affordable homes.
20. Even if there were strong interest in developing these sites, there is no guarantee that they would be viable for such development. The Council has accepted that based on up-to-date build costs, the development would have negative viability and is reliant on grant funding. They also accept that sites within the built-up area will inevitably attract higher land values as they are more likely to be developable for market housing. While it is not possible to be definitive about this on each and every site, based on the balance of probability and the viability issues on the appeal site, the evidence is not strong that privately owned sites within the village would be viable to meet affordable housing needs.
21. The Council has identified one particular site which it states may be able to provide up to 5 affordable dwellings and that discussions are currently

underway with another registered provider. This is owned by the Council and may therefore differ from privately owned sites, both in terms of viability and availability. However, there is no indication of any planning application on the site and no scheme has been put to me which demonstrates that it would be capable of providing the number of dwellings suggested. Moreover, in the event that I was to allow the appeal, the Council's site would not meet all of the needs identified. As such, an additional site or sites would still be required to deliver the shortfall. The development before me would not therefore necessarily prejudice the delivery of the site the Council has identified.

22. In the event the appeal is dismissed, there is also nothing before me which gives any indication of how the local authority intends to address affordable housing needs in the village over and above those that might be delivered by their own site. No other Council owned sites capable of being delivered have been identified. Owing to the length of time it has taken for the appeal site and Council land to be identified, I am not convinced that dismissal of the appeal would result in alternative sites coming forward in a reasonable timescale to meet a need that appears to be increasing over time.
23. There are some limitations in the evidence of both parties on this matter. However, there is little before me that provides any comfort that viable alternatives exist that would meet the needs identified or that there is a strategy in place for meeting these needs outside the delivery of rural exception sites. On the balance of probability, I am satisfied that there are no realistic alternatives that could deliver the same benefits as the development. As such, I have given little weight to the Council's concerns in relation to the provision of alternative sites and do not consider that there has been any breach of CS policies CP2 or SP3 which seek to deliver rural exception sites subject to certain restrictions.

### **Other Matters**

24. A signed and dated S106 Agreement has been submitted with the appeal which secures 8 affordable rented dwellings and 2 shared ownership dwellings on the site. The Council has no objection to the tenure mix and I see no reason to come to a different conclusion. This agreement also secures the provision, phasing and management of public open space and SUDs measures. With regard to affordable housing, this is clearly necessary in order to meet local need and to comply with CS Policy CP2. The provision of the open space and SUDs would also be necessary to provide the required drainage strategy and meet the policy requirements for open space provision.
25. I consider that the above obligations are directly related to the development, necessary to make the proposal acceptable in planning terms and reasonably related in scale and kind to the housing proposed. I am also satisfied that the obligations meet the requirements of regulation 123 of the CIL Regulations. They therefore meet the statutory and policy tests and I have taken them into account in my decision.
26. The development would clearly lead to additional vehicular movements in the area, including around the junction between Low Street and Pinfold Lane. However, I saw nothing which suggests this junction is inherently unsafe or that the additional levels of traffic would lead to a significantly greater level of risk. The narrowness of Pinfold Lane and Elston Lane is noted, but volumes of traffic are unlikely to be so significant as to create unacceptable additional risk.



Elston Lane now only serves the dwellings along it and thus it would also be reasonable to assume that drivers, including potential future occupants of the development, would be cognisant of the need to take proper precautions on a 30 mph road in a residential area. This includes risks associated with people accessing or egressing residential drives. There would also be adequate visibility from the access road of the site. Any concerns over construction traffic can be adequately addressed through the imposition of suitable conditions suggested by the Council.

27. It would be reasonable to assume that the likely effects on Pinfold Lane of closing Elston Lane were taken into account when the road closure was considered. I note that the highway authority did not object to the development in terms of general traffic flows or safety. This is an important material consideration and I saw nothing that would lead me to a different conclusion.
28. Elston Lane remains a popular walking route, but with the proposed pavement in place, I see no reason why the development should result in undue risk to pedestrians. Beyond the site's access, there would be no greater level of traffic than there is now. Much of Elston Lane would therefore be unaffected by the development. The pavement can be secured by condition.
29. I recognise that there are few facilities within Elston, and some travel would be required. This is likely to lead to some additional car trips. Nonetheless, the identified need for affordable housing is an important factor. In seeking to meet local needs in villages such as this, there is likely to be some tension with objectives of locating development in the most accessible locations. This is reflected in the relationship between policies CP2 and SP3 and the development meets the broad locational requirements of those policies. It would not necessarily be appropriate or policy compliant to meet identified local needs elsewhere in the district.
30. Paragraph 55 of the Framework also states that development in rural areas should be located where it will enhance or maintain the vitality of rural communities. Notwithstanding the lack of facilities in the village, the development would help to support a strong community by providing housing to meet the needs of the present and future generations. This adds weight to the delivery of affordable housing in this location.
31. The officer report indicates the development would normally be expected to make a financial contribution to facilitate the creation of two additional school places. The report also states that the village primary school is at capacity. However, the Council has accepted the appellant's evidence that a contribution would not be viable and the lack of an education contribution did not form part of the reason for refusal. Considering the small scale of the likely increase in demand for school places, this factor does not carry significant weight against the proposal in this case.
32. Reference has been made to significant developments within 5 miles of the village. I have not been provided with any details of these developments or whether they would meet the specific affordable housing needs of Elston. As such, I cannot conclude that development elsewhere is of any particular relevance or significance to the planning balance to be considered here.

33. I am satisfied that there would be no undue impacts in terms of flooding, drainage or sewerage capacity in the village. The development proposes suitable mitigation measures and I see no reason why the Council's suggested conditions would not be sufficient to ensure the site can be adequately drained. There is nothing to suggest there would be significant risk to either future occupants of the development or those living nearby the site as a result of the development.
34. There would be sufficient separation from existing dwellings to ensure there would be no undue effect on the living conditions of existing residents in terms of privacy, outlook, noise or disturbance. I also see no reason why there should be harmful effects resulting from the development in terms of crime or anti-social behaviour.
35. Concerns have been raised over the potential precedent that might in the event that the appeal is allowed. Given that I have concluded that the proposal would be acceptable, I see no reason why it would lead to harmful development on other sites in the area. In any event, each application and appeal must be judged on its own merits. While reference has been made to the potential for a Neighbourhood Plan, there is nothing before me which indicates any progress on this and as such this is not a factor to which I can give significant weight.
36. While I recognise that the previous use of the site may have provided a welcome local leisure use for local residents, this is no longer in place and there is no guarantee that if I were to dismiss the appeal that it would return. Moreover, there is nothing before me that demonstrates the site represents the only location from which this use could take place. This factor does not therefore carry significant weight in my decision.
37. An Ecology Appraisal has been submitted which does not suggest the presence of protected species, though the retained hedgerow might provide potential for foraging bats, birds and commuting reptiles. The appraisal also suggests measures for protection and enhancements to mitigate the effects of the development, all of which can be required by condition. I have no reason to question the results or recommendations of this appraisal and there is insufficient evidence to suggest planning permission should be withheld on these grounds.
38. There is nothing to suggest that allowing the appeal would result in any significant closing of gaps between Elston and other settlements. While I have also noted reference to the proximity of the A43 and other proposals such as a skate park, I do not consider the cumulative effects would result in significant detrimental impact on the living conditions of residents or the overall character of the village.
39. Some concerns have been raised about the Parish Council's support of the proposal. This is primarily a matter between interested parties and the Parish Council. I have had regard to all letters of support and objection and have come to my conclusion based on all of the evidence before me and my own observations of the site.
40. Taking all other matters into account, I am satisfied that the development meets the requirements of Policy SP3 in relation to the impact and scale of development.

## **Conclusion**

41. The Framework sets out that there should be a presumption in favour of sustainable development and indicates that to achieve that, economic, social and environmental gains should be sought jointly and simultaneously through the planning system. In terms of the environmental impact effects, I have had regard to protecting the intrinsic beauty of the countryside. There would be clearly be some change to the character of the site, but I consider the overall effect of the development to be acceptable.
42. Nonetheless, any change in character would also have to be balanced against the delivery of 10 affordable dwellings in a location where there is evidence of a long term and growing need for affordable housing. I have also had regard to the Framework's aim of boosting significantly the supply of housing, including affordable housing. I have therefore applied substantial weight to the affordable housing provision proposed and the social and economic benefits that would be delivered as a result.
43. There are no other factors that I consider would outweigh the benefits that would be provided. In my view, the development would therefore meet the objectives of the development plan as a whole. Accordingly, in terms of ADM Policy DM12 the proposal would result in a sustainable form of development for which there is a presumption in favour.
44. The appellant has suggested that the Council does not have a five year supply of deliverable housing sites as required by paragraph 47 of the National Planning Policy Framework (the Framework). However, in this case I have found that the proposal would comply with the development plan. As such, with or without a five year supply, my decision would not be altered. In such circumstances, paragraph 14 of the Framework states that permission should be approved without delay. For this reason, and in taking account of all other matters raised, I consider the appeal should be allowed.

## **Conditions**

45. The Council has suggested 24 conditions which I have considered in accordance with the PPG and paragraph 206 of the Framework. I shall address them using the same numbering as the Council for ease. Condition 1 is the standard condition which limits the lifespan of the planning permission. Condition 22 relates to the approved plans and is necessary to provide certainty.
46. Conditions 2, 3 and 4 are necessary in the interests of the living conditions of nearby residents. Conditions 4, 16, 17, 18, 19 and 20 are all necessary in the interests of the character and appearance of the area. I have amended condition 20 to better reflect the PINS model condition in the interests of clarity.
47. The PPG states that conditions restricting the use of permitted development rights should only be imposed in exceptional circumstances. In this case, the site sits on the edge of the settlement in a sensitive location close to a conservation area. I therefore consider that condition 21 is reasonable to ensure the Council can fully consider the effect of any future alterations to the approved dwellings. I have amended the suggested condition to refer to the correct version of the Town and Country Planning (General Permitted Development) Order.

48. Conditions 5 and 6 deal with the disposal of surface water and foul sewerage from the site. Although there is some overlap with the S106 agreement in terms of the management of SUDs, condition 6 refers to the whole drainage package of which SUDs may be just one part. I have amended condition 5 to reflect the PINS model condition in the interests of precision.
49. Conditions 7, 8, 9 and 10 deal with wildlife and biodiversity. Condition 7 is acceptable in principle in that it provides assurances about the protected species, particularly badgers. The suggested wording placed no requirement for any pre-commencement checks to be submitted to the Council or for mitigation measures to be agreed. I do not consider the suggested condition would have been effective in achieving what was intended and thus I have amended it to make it more robust. Condition 8 provides some additional protection for potential wildlife associated with existing hedgerows. Condition 9 is necessary in the interests of the potential effect on foraging bats. This condition also has positive implications for the living conditions of nearby residents. Condition 10 is required in relation to the recommendations of the Ecological Assessment submitted with the application.
50. Condition 11 is necessary in relation to the findings of the appellant's Geophysical Survey and the proximity to other nearby historic features. An archaeological watching brief in this context is justified and reasonable. Conditions 12, 13, 14, 15 deal with the highway aspects of the development and serve to ensure there would be safe access to and within the site and that there would be safe and appropriate pedestrian links from the site.
51. Conditions 3, 4, 6, 7, 9, 10, 11, 19 are by necessity pre-commencement conditions to ensure the development proceeds in accordance with the approved details. In addition to those specifically mentioned above, I have also made minor drafting amendments to a number of conditions in the interests of clarity, precision and consistency. These have not affected the meaning or operation of the conditions.
52. The Council suggested conditions relating to affordable housing the delivery of open space and SUDs on the basis that an executed S106 Agreement was not in place when it submitted its statement. I have not imposed these conditions as they essentially duplicate the provisions of the agreement and are thus unnecessary.

*S J Lee*

INSPECTOR

### **Schedule of Conditions**

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) No construction work, including site clearance and delivery of materials, shall be carried out except between the hours of 0730 and 1800 Monday to Friday and 0830 and 1300 on Saturdays and at no time on Sundays and Bank Holidays, unless otherwise agreed in writing by the local planning authority.
- 3) No development shall commence, including any works of demolition or site clearance, until a Construction Method Statement has been submitted to, and approved in writing by the local planning authority. The approved statement shall be adhered to throughout the construction period unless otherwise agreed in writing by the local planning authority. The statement shall provide for:
  - i. The parking of vehicles of site operatives and visitors
  - ii. Loading and unloading of plant and machinery
  - iii. Storage of plant and materials used in constructing the development
  - iv. The erection and maintenance of security hoardings including decorative displays and facilities for public viewing, where appropriate
  - v. Wheel washing facilities
  - vi. Measures to control the emission of dust and dirt during construction
  - vii. A scheme for recycling/disposal of waste resulting from demolition and construction works
- 4) No development shall commence until details of the existing and proposed ground and finished floor levels of the site and approved buildings have been submitted to and approved in writing by the local planning authority. The development shall be carried out thereafter in accordance with the approved details unless otherwise agreed in writing by the local planning authority.
- 5) None of the dwellings hereby permitted shall be occupied until works for the disposal of foul sewage shall have been provided on the site to serve the development hereby permitted, in accordance with details that have first been submitted to and approved in writing by the local planning authority.
- 6) No works shall commence until a detailed surface water drainage design and management plan has been submitted and approved by the local planning authority. This design and management plan must include or address the following:
  - a. Evidence that the hierarchy of drainage options, infiltration - discharge to watercourse - discharge to sewer has been followed correctly and any decisions made supported by facts.
  - b. Hydraulic calculations must show compliance of the proposed system to current design standards including climate change allowances. The site drainage system should cater for all rainfall events up to a 100year + 30% climate change level of severity. The underground

drainage system should be designed not to surcharge in a 1 year storm, not to flood in a 30 year storm and for all flooding to remain within the site boundary without flooding new buildings for the 100year + 30% climate change event. The drainage system should be modelled for all event durations from 15 minutes to 24 hours to determine where flooding might occur on the site. The site levels should be designed to direct this to the attenuation system and away from the site boundaries.

- c. Details of maintenance regimes for any SUDS along with how these will be managed for the lifetime of the development.
  - d. Details of what elements of the system will be adopted and by whom, including highway drainage, public sewers, SUDS and above and below ground storage assets.
  - e. Flow paths for exceedance flows.
  - f. Any flood resilience measures proposed for new buildings.
- 7) No development shall commence until the submitted Ecology Assessment has been updated to confirm the findings of the previous report in relation to the presence of protected species and a statement outlining measures to minimise risk of harm to animals during construction has been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the measures in the approved method statement.
- 8) No hedge or tree that is to be removed as part of the development hereby permitted shall be lopped, topped, felled or otherwise removed during the bird nesting season (from the beginning of March to end of August inclusive) unless otherwise agreed in writing by the local planning authority.
- 9) No development shall commence until details of any external lighting have been submitted to and approved in writing by the local planning authority. The details shall include location, design, levels of brightness and beam orientation, together with measures to minimise overspill and light pollution and minimise impacts to foraging bats. The lighting scheme shall thereafter be carried out in accordance with the approved details and the measures to reduce overspill and light pollution retained for the lifetime of the development unless otherwise agreed in writing by the local planning authority.
- 10) No development shall commence until a scheme for ecological enhancement has been submitted to and approved in writing by the local planning authority. The approved scheme shall be implemented in full in accordance with the scheme for enhancement to an agreed timescale and shall thereafter be retained for the lifetime of the development.
- 11) No development shall commence until a scheme for an Archaeological Watching Brief has been submitted to and approved in writing by the local planning authority. The approved scheme shall be carried out by a qualified archaeologist or archaeological body approved by the local planning authority.

Unless otherwise agreed in writing by the local planning authority, within 3 months of completion of the excavation works, a summary report shall



be submitted to the local planning authority and the results of the 'Watching Brief' shall also be made available for inclusion in the archive of information of Nottinghamshire County Council's 'Sites and Monuments Record'.

- 12) No part of the development shall be occupied unless or until the works to provide a vehicular turning area and footway link on Elston Lane as shown indicatively on approved drawing 102-L have been provided to the satisfaction of the local planning authority.
- 13) No part of the development shall be occupied until the private shared surface access is constructed with provision to prevent the unregulated discharge of surface water from the access to the public highway in accordance with details first submitted to and approved in writing by the local planning authority. The provision to prevent the unregulated discharge of surface water to the public highway shall then be retained for the life of the development.
- 14) No part of the development hereby permitted shall be occupied until the access to the site has been completed and surfaced in a bound material for a minimum distance of 5 metres behind the highway boundary.
- 15) No part of the development shall be first brought into use until such time as a footpath shown on drawing L02-L which links the site to existing village has been provided on site in accordance with materials which have first been agreed in writing by the local planning authority. The footpath shall be retained for the lifetime of the development unless otherwise agreed in writing by the local planning authority.
- 16) Notwithstanding the materials schedule submitted, development shall not commence until detailed samples of the materials identified below have been submitted to and approved in writing by the local planning authority;
  - facing materials
  - bricks
  - roofing tiles
  - cladding
  - render

The development shall thereafter be carried out in accordance with the approved details unless otherwise agreed in writing by the local planning authority.

- 17) Notwithstanding the details provided, no development shall commence in respect of the features identified below, until details of the design, specification, fixing and finish in the form of drawings and sections at a scale of not less than 1:10 have been submitted to and approved in writing by the local planning authority.
  - external windows including roof windows;
  - doors and their immediate surroundings, including details of glazing and glazing bars;
  - treatment of window and door heads and cills;
  - verges and eaves;

- coping.

Development shall thereafter be undertaken in accordance with the approved details unless otherwise agreed in writing by the local planning authority.

- 18) No part of the development shall be brought into use until details of all the boundary treatments proposed for the site including types, height, design and materials, have been submitted to and approved in writing by the local planning authority. The approved boundary treatment for each individual plot on site shall be implemented prior to the occupation of each individual dwelling and shall then be retained in full for a minimum period of 5 years unless otherwise agreed in writing by the local planning authority.
- 19) No development shall commence until full details of both hard and soft landscape works have been submitted to and approved in writing by the local planning authority and these works shall be carried out as approved. These details shall include:
- a schedule (including planting plans and written specifications, including cultivation and other operations associated with plant and grass establishment) of trees, shrubs and other plants, noting species, plant sizes, proposed numbers and densities. The scheme shall be designed so as to enhance the nature conservation value of the site, including the use of locally native plant species;
  - existing trees and hedgerows, which are to be retained pending approval of a detailed scheme, together with measures for protection during construction;
  - means of enclosure; hard surfacing materials;
  - minor artefacts and structures (for example, furniture, play equipment, refuse or other storage units, signs, lighting)
  - proposed and existing functional services above and below ground (for example, drainage power, communications cables, pipelines etc. indicating lines, manholes, supports)
  - retained historic landscape features and proposals for restoration, where relevant
- 20) All planting, seeding or turving comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner; and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.
- 21) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification) other than development expressly authorised by this permission, there shall be no development under Schedule 2, Part 1 of the Order in respect of:



Class A: The enlargement, improvement or other alteration of a dwellinghouse, including extensions to the property and the insertion or replacement of doors and windows.

Class B: The enlargement of a dwellinghouse consisting of an addition or alteration to its roof.

Class C: Any other alteration to the roof of a dwellinghouse.

Class D: The erection or construction of a porch outside any external door of a dwellinghouse.

Class E: Development within the curtilage of a dwellinghouse.

Class F: The provision or replacement of hard standing within the curtilage of a dwellinghouse.

Or Schedule 2, Part 2:

Class A: The erection, construction, maintenance, improvement or alteration of a gate, fence, wall or other means of enclosure.

22) Other than as required by conditions 4, 9, 10, 16, 17, 18, 19, the development hereby permitted shall be carried out in accordance with the following approved plans:

- Proposed Site layout 102 L;
- Site Location Plan 001-A;
- Site Location Within Village Context Plan 002-A;
- Proposed Street Elevation, Drawing No. 210-B;
- Plots 1, 2 & 3 Plans and Elevations, 220-A;
- Plots 6 & 7 Plans and Elevations, 221-B;
- Plots 8 & 9 Plans and Elevations 222-B;
- Plot 10 – Plans and Elevations 223-A;
- Plots 4 & 5 – Plans and Elevations 224-A;
- Materials Schedule submitted 20th February 2017;
- Proposed External Works Drainage GA Plan, D396\_100\_P14.



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## Appeal Decision

Site visit made on 4 December 2017

**by Sarah Housden BA (Hons) BPI MRTPI**

**an Inspector appointed by the Secretary of State for Communities and Local Government**

**Decision date: 19 December 2017**

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**Appeal Ref: APP/B3030/D/17/3182692**

**Bunny Hill Barn, Old Rufford Road, Farnsfield NG22 8HU**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Mr Steven Lee against the decision of Newark & Sherwood District Council.
  - The application Ref 17/00562/FUL, dated 17 March 2017, was refused by notice dated 31 May 2017.
  - The development proposed is 'two storey extension and single storey lean-to'.
- 

### Decision

1. The appeal is allowed and planning permission is granted for a two storey extension and single storey lean-to at Bunny Hill Barn, Old Rufford Road, Farnsfield NG22 8HU in accordance with the terms of the application, Ref 17/00562/FUL, dated 17 March 2017, and the plans submitted with it, subject to the following conditions:
  - 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
  - 2) The development hereby permitted shall be carried out in accordance with the approved plans as follows: 041/P2/004 Existing and Proposed site layout, 041/P2/002 Proposed Elevations and 041/P2/003 Proposed Floor Plans.
  - 3) Notwithstanding condition 2, no development shall take place until details of the joinery for the doors and windows in the extensions hereby permitted have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
  - 4) No demolition or development shall take place until details of a procedure for recording the staircase and first floor loft door opening as shown on elevation A on drawing number 041/P2/001 have been submitted to and approved in writing by the local planning authority. The recording shall be carried out in accordance with the approved details.

### Main Issue

2. The main issue in this case is the effect of the proposal on the significance of a non-designated heritage asset, having particular regard to the effect of the proposed extensions on the character and appearance of the host property.

## Reasons

3. The appeal site is located approximately 1.7 km to the west of Farnsfield and approximately 150 metres to the south of the commercial and residential properties at the A614 Old Rufford Road/Mansfield Road White Post roundabout. Bunny Hill Barn lies to the south of the group of converted agricultural buildings formerly associated with Hill House Farm with which it shares a long single track access drive off Mansfield Road.
4. The National Planning Policy Framework (the Framework) (paragraph 135) indicates that the effect on the significance of a non-designated heritage asset should be taken into account in determining a planning application. Policies CP9 and CP14 of the Newark and Sherwood Core Strategy (2011) (CS) and Policies DM5 and DM9 of the Allocations and Development Management Development Plan Document (2013) (DMP) are consistent with the Framework in seeking to protect and sustain the significance of heritage assets through appropriate siting, design, detailing, materials and methods of construction. The 'Conversion of Traditional Rural Buildings' Supplementary Planning Document (2014) (SPD) indicates that extensions and alterations to a traditional rural building should not remove essential features, compromise its architectural integrity, building form or have a substantial impact on the wider landscape setting.
5. Whilst not on a local list of non-designated heritage assets, the significance of Bunny Hill Barn was assessed as part of the planning application process. Based on my site visit, I concur with the Council's view that its significance derives from its robust appearance and character and traditional detailing which provide a connection to its former agricultural use. The retention of historic features such as window and door openings and the use of high quality new materials have helped to maintain the historic connection with the building's former use. In addition, it makes a contribution to the group setting of the buildings within the countryside to the west of the village.
6. Views of the appeal property are restricted due to its enclosure with boundary fences, the position of adjoining buildings, vegetation and the general topography of the area. When viewed from the Public Right of Way to the north and Old Rufford Road, the property is seen as part of the farm grouping which served Hill House Farm.
7. The gabled form and varied ridge heights of the proposed two storey and single storey extensions along the southern boundary would reflect the varied height and form of the host property and the adjoining unit at Farm View Barn. The extension would form a 'U' shaped yard, an arrangement which the SPD identifies as a recognisable farm building layout within the District. Whilst the Conservation Officer considers that a single storey extension would be more appropriate, the two storey projection would be limited in length and would be subordinate in scale to the original barn which would remain the dominant building form.
8. The glazed section whilst contemporary in appearance would have a vertical emphasis and a condition requiring details of the joinery would be necessary and reasonable to ensure that it is sympathetic to the host building. This aspect would accord with the guidance in the SPD which indicates that extensions of modern design may be acceptable provided that they are carefully designed and do not harm the existing character of the building. I

- conclude that the overall scale and form of this part of the scheme would not be harmful to the character or appearance of the property or to its significance as a non-designated heritage asset. It would not be unduly prominent or conspicuous and would not be harmful to the barn's contribution to the landscape setting of the group or to its relationship with Hill House.
9. Turning to the east elevation, the brickwork supporting the external staircase feature appears to have been largely re-built. There is nothing in the evidence to indicate whether the window below the stairs is within an original opening or not. Although the stone treads appear to be original, the historic character of the structure has been changed by the areas of new brickwork and the addition of railings. Notwithstanding this, the form of the staircase together with the loft door opening at first floor contribute to the understanding of and connection with the building's former use and therefore to its significance.
  10. The proposed lean-to would necessitate removal of the staircase in addition to the removal of the first floor loft door and a reduction in the length of the opening to accommodate a three pane window. This domestic style window would be out of character with the two pane windows in the rest of the property. Taken together, the removal of the staircase and the alteration to the first floor opening would result in the loss of historic fabric which would be harmful to the significance of the building. The proposed lean-to extension and new door opening would have a modern appearance which would be unsympathetic to the barn's existing character.
  11. In my view the harm to the non-designated heritage asset identified above is less than substantial. The Framework makes clear in paragraph 135 that less than substantial harm to the significance of a non-designated heritage asset requires a balanced judgement having regard to the scale of any harm or loss and its significance. The re-arrangement of the internal layout of the accommodation is essentially a private benefit and I attach little weight to this consideration in the overall planning balance.
  12. However, the appellant has submitted evidence of a significant damp problem within part of the living accommodation formed within the staircase area. Whilst I note the Conservation Officer's view that the use of cement pointing and tanking may have restricted air circulation within the building, there also appears to be water ingress. At my site visit it appeared likely that the flat roof which has been coated to try and prevent water ingress and the lack of features to remove and dispose of rainwater has contributed to the problem.
  13. The damp problem is of concern in relation to the long term integrity of the structure and the practicalities of the residential use of the building. Having regard to the location of the building within the wider group and the extent of existing alterations to the staircase, I conclude that the loss of the staircase and loft door opening would cause limited harm to the significance of the appeal property as a non-designated heritage asset. That is a material consideration to which I attach significant weight in the overall planning balance.
  14. In conclusion, the proposed extensions along the southern boundary would not be harmful to the character and appearance of the barn or to its significance as a non-designated heritage asset. Whilst the proposed lean-to extension would not fully accord with CS Policies CP9 and CP14 and DMP Policies DM5 and DM9 and the advice in the SPD that alterations to rural buildings should not remove

essential features, the material considerations in this case are of sufficient weight to outweigh the limited conflict with the development plan. The proposal would be in accordance with the provisions of the Framework in relation to non-designated heritage assets, when read as a whole. However, I have come to this decision based on circumstances of this particular site and the evidence before me.

*Conditions*

15. In addition to the standard time limit condition, a condition requiring that the development is carried out in accordance with the approved plans is necessary for the avoidance of doubt and in the interests of proper planning. A condition requiring details of the proposed joinery to be agreed is necessary in the interests of the character and appearance of the host barn. The officer report indicates that the recording of the staircase structure would be an appropriate response to its removal if justified. Having regard to paragraph 141 of the Framework, I consider that a condition requiring the recording of both the staircase and loft door is necessary and reasonable in the interests of recording heritage assets. As the loss of historic fabric would be relatively minor, it would be appropriate for the details to be agreed between the planning authority and the appellant.
16. For the reasons outlined above and having had regard to all of the other matters raised, I conclude that the appeal should be allowed.

*Sarah Housden*

INSPECTOR

# Agenda Item 18

**PLANNING COMMITTEE - 16 JANUARY 2018**

**AGENDA ITEM NO. 18**

## **ENFORCEMENT ACTIVITY UPDATE REPORT**

This report follows on from the report that was presented to Members on 5 December 2017 which highlighted planning enforcement performance and cases of note during the final quarter until 22 November 2017. This report extends on from this until the end of the quarter; to 31 December 2017 thus giving a complete picture for the quarter.

Moving forward it is intended that a report will be brought before you on a quarterly basis for you to note performance and to update you on cases where formal action has been taken. However it will also include case studies which show how the breaches of planning control have been resolved through negotiation. The first of these comprehensive quarterly reports will be brought before you at the first available Committee where progress can be reported for the period of January to March 2018 (n.b. this is likely to be in May 2018 due to the early committee date in April and lead in times for reports).

This report presents a snap shot on the general volumes of cases received and dealt with.

- Schedule A outlines the enforcement activity during the quarter (October to December 2017).
- Schedule B (separate attachment) sets this (on a pro-rata basis) against the activity over previous quarters). Please note that cases closed exceed, on occasion, cases received as a case received in an earlier quarter may have been closed.
- Schedule C details a summary of formal action taken since the last report was compiled which in this case is for the period of 22 November to 31 December 2017.
- Schedule D provides a selection of cases where breaches have been resolved without formal action having been taken.

### **SCHEDULE A**

<b>SCHEDULE A: ENFORCEMENT CASES</b>	1 to 31 October 2017	1 to 30 November 2017	1 to 31 December 2017
Cases Received	42	49	15
Case Closed*	55	21	4
Notice Issued	0	4	3 (one re-issue)
Notice Complied With		0	0
Appeal Lodged	0	0	1
Prosecutions	0	2	1

It should be noted that 'case closed' can include a number of outcomes, which are generally breach resolved (through planning application or removal), no breach identified (not development or permitted development), or that a breach exists but it is not expedient to pursue. Please note that 'Notice' for the purposes of these statistics does not include Planning Contravention Notices issued.

A separate report will be brought to Members in due course to capture the overall split but in general terms approximately 60% of all cases investigated are not a breach of planning control.

## SCHEDULE C. FORMAL ACTION TAKEN (22<sup>nd</sup> November 2017 to date)

Schedule C provides a more detailed position statement on formal action (such as enforcement notices served) since the report performance report was brought before Members. This table does not detail Planning Contravention Notices served.

It is worthwhile pointing out that where we refuse a retrospective application the Council would ordinarily issue a formal Notice to those with an interest in the land as this then limits the time for appeal to 28 days rather than the usual 6 months and avoids the applicant from having two opportunities of appeal which ultimately would cost the Council money to defend.

<b>Enforcement Ref:</b>	<b>17/00130/ENF</b>
<b>Site Address:</b>	<b>The Red Lion (former) Public House High Street South Clifton Newark, Nottinghamshire</b>
<b>Alleged Breach</b>	<b>Breach of conditions 2 and 10 of planning permission 16/01052/FUL (relating to height of boundary wall)</b>
<b>Date received</b>	<b>06.05.2017</b>
<b>ACTION TO DATE:</b>	<b>Service of Enforcement Notice 27/11/2017</b>
<u>Background</u>	
<p>Members may recall that a planning application was considered at 1 November 2017 Planning Committee for the '<i>Material <u>change of use of public house to dwelling, removal of prefabricated garage and single storey extensions. Construction of first floor extension and new detached double garage. Form new garden from land formerly part of the Old Farm House.</u></i>' Members approved the application (in line with the officer recommendations) subject to a number of conditions. Of note is Condition 2 (the plan condition) which for the avoidance of doubt defined the permission and Condition 10 which was specifically imposed by Members which 'conditioned out' the raising of the boundary wall with High Street and Back Lane.</p>	
<p>The applicant then applied (under planning reference 17/01129/FUL) to vary Condition 10 of the permission to allow the boundary wall to be raised. At some point the wall was raised prior to the determination of the application by Planning Committee on 3<sup>rd</sup> October 2017. The application was refused by Members (in line with officer recommendation) on the grounds that the raising of the wall restricted visibility from the site access to the detriment of highway safety. An appeal against this refusal has been lodged. However this appeal, even if successful will not achieve what the applicant wants (which is ultimately the retention of the entire length of wall at the height as now exists) as it relates to only part of a wall some c7.6m in extent rather than the entire wall.</p>	
<p>Ongoing discussions have taken place, however since the wall was raised, the then applicant has sold on the property. Further negotiations have taken place with the new owners with a view to resolving the breach. However this has culminated in the service of the Breach of Condition Enforcement Notice.</p>	

A Breach of Condition Notice was served on 27.11.2017 upon the previous owner who undertook the works as well as the new owners. There is no right of appeal against the issue of such a Notice. However a long compliance period (until the end of May 2018) has been given to allow the owners to engage the services of a reputable builder to undertake the works.

The Notice requires the reduction in the height of the wall to no more than 1 metre where it bounds High Street (required to be no higher given highway visibility splays) and 1.3m where it abuts Back Lane as was it was previously.

**Enforcement Ref:** 16/00323/ENF

**Site Address:** Home Farm  
29 Main Street  
Upton  
Newark

**Alleged Breach** Poor condition of listed building

**Date received** 18.10.2016

**ACTION TO DATE:** Successful prosecution on 30/11/2017 for Non-Compliance with Section 215 Notice

#### Background

Complaints were received regarding the poor state of a Grade II listed building and its grounds. Investigations established that the complaint was justified and that the appearance of the site was harmful to the amenity of the area. Officers had some difficulties in accessing the site which resulted in a warrant being issued to enter the premises. Further difficulties were encountered due establishing ownership of the land.

Correspondence to the owner was ignored and this resulted in the service of a Section 215 Notice on 16 May 2017 which required;

- Removal of the overgrowth (brambles, nettles vegetation) growing to the western side of the house and from within the courtyard;
- Removal of the vegetation growth from the exterior of the building
- Clean, repair and repaint the exterior joinery and board out openings with no windows;
- Replace broken or missing window panes,
- Clear eaves guttering and rainwater goods etc.
- Refix loose pantiles.

The Notice took effect on 14 June 2017 with a time period for compliance given as two months, so by 14 August 2017. No works took place.

Court proceedings against non-compliance with the Notice have since taken place in Mansfield Magistrates Court on 30 November 2017. However the owner failed to attend the hearing (despite the owner apparently telephoning the court to say he was on his way some 15 minutes after it was listed to be heard) and the magistrate took the decision to hear the evidence in his absence. The owner was found guilty and was fined £440, a victim surcharge of £44 and costs in full of £753 to be payable within 28 days.



In terms of further action, Mr Smith will be guilty of a continuing offence, which is up to £100 per day for each day he fails to comply with the notice. Direct action is another option that will be considered should the need arise.

**Enforcement Ref:** 12/00400/ENF

**Site Address:** Land off Moor Lane  
South Clifton  
Nottinghamshire

**Alleged Breach** 1) Siting of residential caravan, 2) erection of a metal framed building and 3) operating business

**Date received** 18.10.2016

**ACTION TO DATE:** Committal Proceedings in Court 6<sup>th</sup> December 2017 - Adjourned due to substantive breaches resolved

#### Background

This is a long standing enforcement case whereby formal action had already been taken. An Enforcement Notice was served in June 2011 requiring the removal of a static caravan and the cessation of the unauthorised residential use by 21 September 2012. An appeal was lodged and dismissed in May 2012.

However further breaches of planning control took place and on 3 September 2012 two further Enforcement Notices were served requiring the removal of a green metal framed building and the cessation of the use of the land for business purposes.

In August 2014 given the enforcement notices had not been complied with the perpetrators were taken to court where a not guilty plea was entered. A trial was then set for 23 January 2015 (having been put back from 2014 given their ill health) but was withdrawn on legal advice given that a defence was entered that the person being prosecuted did not own the site and there were bankruptcy issues which meant even a successful prosecution would not cover the legal costs nor resolve the breach.

Having explored every other tool available in order to resolve the breach it was concluded in 2015 that the only way in which the breach could be resolved was via injunctive and direct action having got support from Members of the Planning Committee in July 2015.

Following the resolution of Members, the courts eventually granted the Council an injunction on the land on **12 December 2016**. The injunction required compliance with the Enforcement Notices and to return the land to its lawful agricultural state.

Further site inspections were carried out in March, April and September 2017 which concluded that the Injunction had not been complied with.

Consequently a committal hearing took place on **6 December 2017**. The case progressed on the basis that whilst the residential occupation of the site had ceased (albeit after it should have done according to the injunction) the site was still occupied by significant materials, lorry bodies, and general commercial paraphernalia. Within the court, and prior to the formal committal hearing taking place, the defence provided photographs of the site which appeared to show that the site had been largely cleared, save for some timber stables and the steel framed building, which was reported to be solely used to store agricultural equipment. On this basis that it appeared that the breaches of planning control appeared to have been largely resolved the Council requested that the court adjourn the matter until the New Year. A site visit was undertaken immediately afterwards which confirmed that much of the breach had been resolved including the residential use and the caravan removed albeit some buildings remain on site.

Whilst the Injunction Order served has not been fully complied with, the Authority is required to consider expediency. Upon inspecting the site on the same day, the 2 substantive structures which remain on the site are stables and the metal framed building. There was also a loaded lorry trailer, a shed, a green steel container and some fencing. Officers consider that the site is now largely acceptable in planning terms (i.e. not unusual for a site in the open countryside) and with agreement from the Deputy Chief Executive it was concluded that the breach of planning permission was largely resolved to an acceptable level such that no further formal action is considered expedient, proportionate or necessary. The case is now closed with no further action albeit the owner of the site has been written to explicitly require that the Injunction Order which remains on the land is complied with (with the exception of the removal of the metal framed building which officers accept could remain subject to being lowered in height and solely used for agricultural purposes).

**Enforcement Ref: 17/00406/ENF**

**Site Address: 2 Adams Row  
Southwell  
Nottinghamshire**

**Alleged Breach Non-compliance with conditions 2 and 4 of permission 16/00024/FUL**

**Date received 13.11.2017**

**ACTION TO DATE: Service of Enforcement Notice on 28/11/2017**

#### Background

Planning permission was granted under delegated powers on 2<sup>nd</sup> March 2016 (planning reference 16/00024/FUL) for the erection of a rear lean-to kitchen extension and front extension over the existing garage of the above dwelling.

Four conditions were attached as follows; 1) required the development be commenced within 3 years; 2) required compliance with the approved plans; 3) required the development be carried out with the approved materials; and 4) required all windows in the western elevation to be obscure glazed (level 3 or higher on the Pilkington scale of privacy) and non-opening up to a height of 1.7m above internal floor level prior to first occupation and thereafter be retained

as such.

It was brought to our attention that the 3 windows at first floor within the extension (serving a bathroom, study and en-suite) had not been fitted with obscure glazing. In considering the planning application the case officer noted:

*“With regards overlooking; a non-obscure glazed window was visible during the site visit within the eastern elevation of the neighbouring dwelling which is understood to serve a landing. It is proposed that 3 windows be constructed at first floor level in the western elevation of the extension to serve a bathroom, study and ensuite. It would be expected that in the interests of amenity that the bathroom and ensuite be obscure glazed, however in the interests of privacy I am also recommending that the window in the study be obscure glazed and non-opening up to a minimum height of 1.7m, which shall be controlled by way of condition. Subject to the imposition of such a condition I am confident that the proposed first floor element above the garage would not significantly detract from the amenity of the neighbouring property to warrant refusal.”*

It was therefore clear that obscurity of the window is essential to the acceptability of the overall scheme and it was therefore deemed to be expedient to take action. As such an Enforcement Notice was issued upon the owners of the property on 27<sup>th</sup> November 2017 which requires that all windows at first floor level on the west elevation of the extension are fitted with obscure glazing for the full height of the window and to ensure they are non-opening up to a minimum height of 1.7m from internal floor level. The Notice takes effect on 25<sup>th</sup> December 2017 with compliance required 56 days later; c24th February 2017.

**Enforcement Ref:** 17/00400/ENF

**Site Address:** Trent Farmhouse  
Norwell Woodhouse  
Nottinghamshire

**Alleged Breach** Unauthorised material change of use of land

**Date received** 10.11.2017

**ACTION TO DATE:** Service of Enforcement Notice 8/12/2017

#### Background

Members will recall a committee site visit on 5 December 2017 in connection with the consideration of a householder application (17/01888/FUL) for a two storey extension at the above property which you resolved to refuse. During the site visit it was noted that a paddock/agricultural land to the north and north-east of Trent Farmhouse was being used for domestic purposes with the applicant having apparently extended their garden curtilage without the necessary planning permission. This was considered to be a harmful and unsustainable encroachment into the open countryside and contrary to the Development Plan. Members resolved that the matter be taken forward with the issue of an Enforcement Notice.

Consequently on 8 December 2017 an Enforcement Notice was served upon the owners of the land which requires the cessation of the use of the land for domestic purposes and the removal

of all of the domestic paraphernalia including play equipment. The Notice comes into effect on 18 January 2017 with compliance required by 18 April 2017.

**Enforcement Ref:** 17/00370/ENF

**Site Address:** Blu Burger UK Ltd  
14 Castle Gate  
Newark, NG24 1BG

**Alleged Breach** Installation of 'Just Eat' projecting sign

**Date received** 18.10.2017

**ACTION TO DATE:** Service of Listed Building Enforcement Notice on 8.12.2017

#### Background

A complaint was received in October that a new projecting sign had been installed on a Grade II listed building without the appropriate consent. Its presence was considered as unnecessary clutter and harmful to the special interest of the listed building. After correspondence with the perpetrators failed to gain any assurances that the breach would be resolved, it was determined that formal action would be necessary to resolve the breach.

Consequently on 8 December 2017 a Listed Building Enforcement Notice was served upon those with an interest in the land which requires the projecting sign and associated brackets to be removed and that any holes created by the installation of the fixtures are made good. The Notice came into effect 28 days following service of the Notice with the time for compliance being 7 days; therefore its removal is required by 19 January 2018.

#### **SCHEDULE D: EXAMPLES OF BREACHES RESOLVED WITHOUT FORMAL ACTION**

Formal enforcement action is usually the last resort and where negotiations have failed to produce a satisfactory resolution of a breach of planning control. In the vast majority of cases negotiation, or the threat of formal action, is enough to secure compliance with planning legislation and the following are a few examples of how officers have resolved breaches through negotiation.

##### **17/00271/ENF - SOUTHWELL**

A complaint was raised regarding the erection of awnings having been erected between listed buildings. Following correspondence, the awnings have now been removed and the case is now closed.

Before



After



**16/00213/ENF- SOUTHWELL**

Southwell Town Council raised a compliant regarding the erection of a banner advertisement being displayed without consent. Following correspondence the banner has now been removed and the case is now closed.

Before



After



**17/00198/ENF - FARNFIELD**

A complaint was received that an area of raised decking had been erected without permission which caused overlooking of the neighbouring property. Following correspondence with the property owner, a planning application was submitted to retain the decking, along with the provision of additional screening between their property and the neighbours. The permission was approved and the additional screening has now been erected. The breach has therefore been resolved and the case is now closed.

Before



After



**17/00209/ENF - BALDERTON**

The Parish Council raised a compliant regarding the erection of a fence which was higher than the one it replaced, particularly where it projected beyond the frontage of the dwelling. Following correspondence and negotiation, the fence was amended (reduced in height to the frontage) to an acceptable standard and the case is now closed.

Before



After



**16/00048/ENF - EDWINSTOWE**

The neighbour raised a complaint about possible overlooking of their property as a result of a new residential development taking place adjacent to their property. Following correspondence a new fence was erected which maintains the neighbours privacy without compromising the development. Resolution – tapered fence that protects privacy whilst not imposing on the neighbour. The case has now been closed.



**17/00277/ENF - BALDERTON**

Neighbours raised concerns that commercial waste was routinely being brought back to a residential property by a tradesman. The occupant was contacted by letter on two occasions, and the matter discussed by telephone once the option of formal enforcement action was raised. The skip which was used to store the waste and had been in situ for a considerable period of time was removed soon after.



Before



After



**17/00246/ENF - NEWARK**

Neighbours brought it to our attention that a large canopy-style structure had been erected without planning permission in the rear garden of a residential property. The site was attended and the issue brought to the attention of the owners and builder. After discussing the methods of resolving the breach through formal enforcement action with the owner by letter and telephone, the roof slope had been changed and the structure had been reduced in height to within permitted development measurements thus resolving the breach.

Before



After



**16/00322/ENF - FERNWOOD**

The Parish Council raised concern that two large advertisement hoardings previously used to advertise the Fernwood development were still in situ some considerable time after all building works had been completed. After bringing the matter to the attention of the developer, the threat of formal action to remove the hoardings prompted the developer to quickly arrange for the signs to be removed.

Before



After



### **RECOMMENDATION**

**That Planning Committee considers the contents of the report and identifies any issues it wishes to examine further.**

Background Papers

Enforcement case files.

For further information please contact Clare Walker on Extension 5834 or [planning@nsdc.info](mailto:planning@nsdc.info)

**Kirsty Cole**  
**Deputy Chief Executive**



